

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.
8

9 Transcript of excerpt of testimony of
10 GERALD ARCHULETA
11 May 11, 2018
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1 THE COURT: All right. Mr. Beck, do you
2 have your next witness or evidence? Or Mr.
3 Castellano? Mr. Beck.

4 MR. BECK: We do, Your Honor. The United
5 States calls Gerald Archuleta. May we approach,
6 Your Honor.

7 (The following proceedings were held at
8 the bench.)

9 MR. BECK: That was a low blow. Gangstas
10 do need love, too.

11 THE COURT: What?

12 MR. BECK: I said, that was a low blow.
13 Gangstas do need love, too.

14 THE COURT: I'm debating whether that was
15 the high point or the T-shirt.

16 MR. BECK: The T-shirt was pretty good.

17 MR. BLACKBURN: I didn't figure anybody
18 would want to see that.

19 MR. BECK: Mr. Archuleta is here. I was
20 just wondering if the Court had thought about it.

21 THE COURT: I've thought about it, but I
22 haven't yet decided. Why don't you approach when
23 you get ready to do that? I assume what you're
24 wanting to do is decide whether you want to bring it
25 out or the defendants bring it out.

1 MR. BECK: Yep.

2 THE COURT: Give me a second.

3 MR. CASTLE: The T-shirt from Mike
4 Tyson -- did that come from Mario Rodriguez by any
5 chance?

6 (The following proceedings were held in
7 open court.)

8 THE COURT: All right, Mr. Archuleta, if
9 you'll come up and stand next to the witness box,
10 before you're seated, my courtroom deputy, Ms.
11 Bevel, will swear you in.

12 GERALD ARCHULETA,
13 after having been first duly sworn under oath,
14 was questioned, and testified as follows:

15 THE CLERK: Please state your name and
16 spell your last name for the record.

17 THE WITNESS: Gerald Archuleta.
18 A-R-C-H-U-L-E-T-A.

19 THE COURT: Mr. Archuleta, Mr. Beck.
20 Mr. Archuleta, it might be better for you
21 if you'd pull that microphone in front of you so you
22 don't have to be turned around so much, and pull it
23 a little bit closer to the middle of the seat.
24 Let's try that.

25

1 DIRECT EXAMINATION

2 BY MR. BECK:

3 Q. Good morning, Mr. Archuleta.

4 A. Good morning.

5 Q. When were you brought into the Sindicato
6 de Nuevo Mexico prison gang?

7 A. Around '89, '90.

8 Q. Do you go by any other names in the gang,
9 any nicknames?

10 A. Yes, I do.

11 Q. And what were those in this case?

12 A. Styx and Grandma.

13 Q. Who brought you into the SNM?

14 A. I was sponsored by Fernie Hernandez,
15 Robert Martinez, Frank Armijo, a few others. I was
16 ultimately approved by Billy Garcia, Marty Barros,
17 and Phillip Cordova.

18 Q. Was one of the other members who sponsored
19 you in or raised their hand for you a gentleman
20 named Freddie or Fred Dawg Sanchez?

21 A. Fred Dawg Sanchez was one of the
22 individuals that sponsored me.

23 Q. Is that the same Fred Dawg who died in
24 prison in 2007?

25 A. Yes, sir.

1 Q. How did you earn your bones in the gang?

2 A. There were several ways. I started by
3 tagging along collecting debts, issuing drugs,
4 assaults, collecting payments, eventual stabbings.

5 Q. Did you -- was one of the stabbings that
6 earned your bones the stabbing of Chaparro?

7 A. Yes, sir.

8 Q. And when did that happen?

9 A. Early '90s.

10 Q. Who ordered that stabbing?

11 A. Phillip Cordova.

12 Q. Why did he order you to stab Chaparro?

13 A. His details to me were that Chaparro
14 brought in drugs for him, and upon arrival, he was
15 short. Apparently they got into it and he needed to
16 be made an example of.

17 Q. And why would the SNM rules require
18 someone who was short on money and got into it with
19 an SNM Gang member to be hit?

20 A. It would be to get in an SNM package would
21 be a sign of disrespect; and disrespect was dealt
22 with every single time.

23 Q. And later in 1992 did you also stab a
24 gentleman named Eddie Lopez?

25 A. Yes, sir.

1 Q. Who ordered that hit?

2 A. Phillip Cordova.

3 Q. And when you joined the gang in 1988, what
4 was the leadership structure of the gang at that
5 time?

6 A. The leadership was Billy Garcia, Marty
7 Barros, and Phillip Cordova.

8 Q. Was there a gentleman that you knew of
9 named Angel Munoz at that time?

10 A. Yes, sir.

11 Q. What was his position in the gang?

12 A. His position was at the top, but he was
13 out of state. At the facility was Marty Barros,
14 Phillip Cordova, and Billy Garcia.

15 Q. So were they calling the shots for the SNM
16 in the state of New Mexico at that time?

17 A. Yes, sir.

18 Q. Did the structure change when Angel Munoz
19 came back into the state?

20 A. Yes, sir.

21 Q. What happened then?

22 A. He took over responsibility wherever he --
23 whatever facility he was at.

24 Q. At some point did Angel Munoz give over or
25 turn over the leadership position in the SNM when he

1 left the prison?

2 A. Yes, sir.

3 Q. And to whom did he give the leadership of
4 the SNM prison gang?

5 A. To myself he gave his position.

6 Q. About when was that?

7 A. '97, '98 maybe.

8 Q. What happened to the leadership structure
9 of the gang when you took over the keys for the SNM?

10 A. We formed -- I formed a five-man board,
11 four-man board.

12 Q. And did you and the SNM refer to that
13 board by any other name?

14 A. It was referred to as the tabla.

15 Q. When you created the tabla, who did you
16 put on the tabla?

17 A. I put Arturo Garcia, Rupert Zamora, Juan
18 Mendez, and Robert Martinez.

19 Q. Why did you put those four men on the
20 tabla?

21 A. These were all individuals that had been
22 in the S a while, had some respect, and were loyal
23 to myself and Arturo.

24 Q. Let me ask you, what was your relationship
25 with Arturo Garcia?

1 A. We were good friends. He was my
2 right-hand man.

3 Q. Below -- well, let me ask you this. Was
4 the tabla and you then at that point calling the
5 shots for the SNM for the entire state?

6 A. Yes, we were.

7 Q. And how long were you the leader with the
8 tabla in place below you?

9 A. Say from around 2004 to 2011.

10 Q. And is 2011 the last time that you were
11 incarcerated before you were arrested in this case?

12 A. Yes, sir.

13 Q. When you left the New Mexico prison system
14 in 2011, who did you leave the keys or leadership
15 position in the SNM to?

16 A. I left Arturo Garcia in charge of the
17 tabla.

18 Q. Below the tabla, were there key holders or
19 leaders at the each of the prisons around the state
20 for the SNM?

21 A. Yes, there was.

22 Q. Throughout the years that you've been a
23 member of the SNM, have there been other prison
24 gangs that the SNM was at war with?

25 A. Yes, there was.

1 Q. What were those gangs?

2 A. Los Carnales, also referred to as the LCs;
3 the Surenos and the Burquenos.

4 Q. At some point did you negotiate a truce
5 with the Los Carnales?

6 A. Yes, sir.

7 Q. Do you remember the time period in which
8 that happened?

9 A. Not exactly. It was -- I can't remember
10 exactly what year it was.

11 Q. Maybe just a range? Early 2000s, mid
12 2000s, earlier, later? Any idea?

13 A. It was around 2004, 2003.

14 Q. Why did you call the truce with the Los
15 Carnales?

16 A. Well, for years they weren't allowing SNM
17 Gang members to be on any sort of population. In
18 place they had a level system which consists of
19 Level 6 was maximum security, went to Level 5, Level
20 4. And in order to complete these programs, you had
21 to complete it with good behavior and doing the
22 program. And for years our violent activity, as a
23 result of the war with the Surenos and the Burquenos
24 and the LCs, kept us at Level 6. So the
25 administration didn't have to come up with a reason

1 to keep us all locked down, because we did it
2 ourselves; and the idea was, if we called the truce,
3 we could put a stop to a lot of violence and go
4 through the program.

5 Q. When you're saying "our violence brought
6 it upon ourselves," who are you referring to, "our"
7 or "we"?

8 A. Members of the SNM against the LCs,
9 Burquenos, and Surenos.

10 Q. While you were the head of the SNM, at
11 least, did the SNM control the prison system?

12 A. Yes, sir.

13 Q. In your opinion, what was the top-ranking
14 prison gang in New Mexico?

15 A. The SNM.

16 Q. At certain points over the years between
17 the time that you joined the gang in 1988 and the
18 time that you left the state in 2011, were there
19 certain periods of time when you were out on the
20 streets and not incarcerated?

21 A. Yes, sir.

22 Q. During those periods of time, did you
23 still conduct drug activities for the SNM?

24 A. Before 2011?

25 Q. Right.

1 A. Yes, sir.

2 Q. And tell us about that. What was expected
3 of you and SNM members when they got out on the
4 streets?

5 A. Provide any kind of help to other SNM
6 brothers, whether it's through sending drugs or
7 money.

8 Q. Did you -- when you got released from
9 prison, did you get drugs from other SNM members to
10 sell to other people on the street?

11 A. Yes. Yes, sir.

12 Q. And was that sort of standard operations
13 for SNM members getting out of prison?

14 A. Yes, sir.

15 Q. Who provided you drugs when you got out of
16 prison to sell?

17 A. Chris Garcia.

18 Q. And did you send -- and as a result of
19 selling those drugs, did you ever send money into
20 the prisons?

21 A. Yes, I had.

22 Q. To whom?

23 A. Fernie Hernandez.

24 Q. And is Fernie Hernandez an SNM member?

25 A. Yes, he is.

1 Q. I also want to talk to you about a few of
2 the crimes that you participated in or called for
3 the SNM. You talked about the SNM being at war
4 with, I think you said, the LCs, the Surenos, and
5 the Burquenos. Was there a period of time when the
6 SNM was also at war with the Aryan Brotherhood, or
7 ABers?

8 A. Yes, sir.

9 Q. I want to talk to you a little bit about
10 that. In the late '90s -- well, let me ask you.
11 How did this sort of rivalry or war with the Aryan
12 Brotherhood start?

13 A. Somewhere around '98, late '90s, the Aryan
14 Brotherhood stabbed two SNM Gang members and it
15 started from there.

16 Q. And is it an SNM rule or an SNM bylaw
17 requirement that if nongang members stab SNM Gang
18 members, then they have to retaliate?

19 A. Yes, sir.

20 Q. Why is that?

21 A. To keep our respect and our hold in
22 prison.

23 Q. Is respect important to the SNM?

24 A. It's the reason the SNM exists.

25 Q. And is that true whether you're in prison

1 or out on the streets?

2 A. It's for both in prison and on the
3 streets.

4 Q. I'm going to show you Government's Exhibit
5 826. Do you recognize this Government's 826 as an
6 aerial view of the Penitentiary of New Mexico
7 facility?

8 I think you said that an Aryan Brotherhood
9 member stabbed two members at the old Main. Is the
10 old Main facility what I've circled right above the
11 sticker that's labeled old Main facility?

12 A. Yes, sir.

13 Q. Is that prison facility still in operation
14 today, if you know?

15 A. No. No, sir.

16 Q. I didn't hear your answer.

17 A. No, sir.

18 Q. What was your answer to whether it's in
19 operation?

20 A. It's closed down at the moment.

21 Q. Okay. After this started, did you take it
22 upon yourself as an SNM member to automatically hit
23 or automatically green light any Aryan Brotherhood
24 members that you encountered?

25 A. Yes, I did.

1 Q. I want to talk to you about the late '90s,
2 when you were at the Main. Did you call or put
3 together a hit on two Aryan Brotherhood members?

4 A. Yes, I had.

5 Q. And do you remember who you tasked to
6 hit -- well, let me ask you this. What was your
7 role in that hit?

8 A. My role, along with Arturo Garcia, was to
9 plan the hit and to make it happen.

10 Q. And who did you and Arturo Garcia task
11 with hitting these two Aryan Brotherhood members?

12 A. We tasked an individual by the name of --
13 or a brother by the name of Alex Munoz; Rocky
14 Galvan, who was a Sureno; a brother named Wino, and
15 a brother named Funny Style.

16 Q. And who did you task them to hit?

17 A. They were two leaders of the SNM in cell
18 block 6 with the name -- one was from Utah named
19 Tree. One was from New Mexico named John Price.

20 Q. And you said two leaders from the SNM were
21 John Price and Tree. Leaders in the SNM or the
22 Aryan Brotherhood?

23 A. Sorry. They were leaders of the Aryan
24 Brotherhood.

25 Q. And how did that -- how did you and Arturo

1 Garcia coordinate that hit with the other SNM
2 members?

3 A. We located the weapons, we had a meeting
4 discussing who was to be involved. We handed out
5 the weapons, discussed exactly when it was going to
6 be done, and it was done.

7 Q. After that, were you involved in calling a
8 hit on an SNM member named Junior?

9 A. Yes, I was.

10 Q. And how did that hit come about?

11 A. I was transferred to the South facility.
12 Brothers -- he at the time was the keyholder of the
13 South facility. Brothers brought to my attention
14 that he was very disrespectful to other brothers.
15 They were upset as to how he was treating them. At
16 the same time, he was very vocal about two leaders
17 of the SNM, which were Phillip Cordova and Marty
18 Barros, in a negative light, and he was asked to
19 step down, which he refused.

20 Q. Now, you said members brought this to your
21 attention. Was this the time period when you were
22 the actual keyholder of the SNM, or was this before
23 then?

24 A. It was at a time that I was -- held an
25 actual position.

1 Q. And did you call the hit on -- well, let
2 me ask you this. What was Junior's or Leroy Torres'
3 status in the SNM at that time?

4 A. He held the position of authority. He was
5 a keyholder.

6 Q. And so did you order the hit, or did you
7 have to go to someone with authority above you?

8 A. I had to get approval from Marty Barros.

9 Q. Why is that?

10 A. Because he was above me.

11 Q. Where did this hit take place?

12 A. At the South facility in the gym.

13 Q. And was Marty Barros incarcerated at the
14 South facility at that time?

15 A. No, he was at the Main facility, I
16 believe.

17 Q. So was he then a leader of all of the PNM
18 facility, and not just the South facility at that
19 time?

20 A. Are you talking about Marty Barros?

21 Q. Marty Barros, yes.

22 A. There was a group of individuals who --
23 they were the leader of the whole SNM, which
24 included Billy Garcia and Marty Barros, Phillip
25 Cordova.

1 Q. So why did you -- if you were a leader in
2 the SNM at this time, why did you still have to go
3 to Marty Barros to authorize this hit?

4 A. Just to make it legit. When it comes to
5 hitting a brother that holds the keys, that's just
6 the way it is. You have to get approval.

7 Q. So is it fair to say for an important hit
8 like this, that order has to come from the top?

9 A. Yes, sir.

10 Q. Did Marty Barros give the order then to
11 hit Leroy Torres?

12 A. He approved it yes.

13 Q. Why?

14 A. I think it was more because he was being
15 talked about by Leroy Torres more than anything
16 else.

17 THE COURT: Mr. Beck, would this be a good
18 time for us to take our first morning break?

19 MR. BECK: That's fine, Your Honor.

20 THE COURT: All right. We'll be in recess
21 for about 15 minutes. All rise.

22 (The jury left the courtroom.)

23 THE COURT: All right. Everyone be seated
24 for just a second. Let me try to give you some
25 rulings on these. I'll find my rules. If I

1 understood the representations here at the bench to
2 the Court, they were that Mr. Archuleta was released
3 from confinement for his 1986.

4 Why don't you take Mr. Archuleta just
5 outside here? You don't need to take him down, but
6 just take him outside the room here so I can talk to
7 them.

8 For his 1986 involuntary manslaughter
9 conviction; then a 1988 second-degree murder
10 conviction. Those two convictions -- we looked at
11 the transcript, the real-time transcript of the
12 Trial 1 testimony at 10:37 to get that second date.
13 Assuming those are correct, then those occurred more
14 than 10 years ago and Rule 609(B) of the rules of
15 evidence applies to those convictions.

16 I think the question that Mr. Castle is
17 raising is that those two convictions were later
18 used to enhance a subsequent conviction. I don't
19 think that alters the result, because when a
20 defendant's criminal history enhances his or her
21 sentence for a subsequent offense, the resulting
22 conviction and sentence are imposed for the conduct
23 underlying a subsequent conviction and not for the
24 conduct underlying the earlier offenses. In United
25 States v. Rodriguez, 553 U.S. 377, 386, 2008, the

1 Supreme Court said when a defendant is given a
2 higher sentence under a recidivism statute, 100% of
3 the punishment is for the offense of conviction.
4 None is for the prior convictions or the defendant's
5 status as a recidivist.

6 And in Mathis versus United States, a more
7 recent case, 136 Supreme Court 2243, 2016, the
8 Supreme Court indicated that under Apprendi, that if
9 statutory alternatives carry different punishments,
10 then they must be elements, which is intention with
11 a principle. The recidivist statute is not an
12 element of the offense when that status increases
13 the maximum punishment for an offense.

14 I think we can reconcile those two
15 principles, but Apprendi contains an explicit
16 exception for the fact of a prior conviction. So
17 Mathis' discussion regarding Apprendi's effect on
18 the inquiry regarding the elements of the offense
19 likewise applies to the facts, other than the
20 existence of a prior conviction. I think if it were
21 otherwise, using a defendant's criminal history to
22 enhance the sentence for subsequent crimes would be
23 unconstitutional under the double jeopardy clause.

24 So I think 609 applies to Mr. Archuleta's
25 1986 and 1988 convictions, even though those

1 convictions were later used to enhance the sentence
2 for a later conviction.

3 Thinking a little bit ahead here, if Rule
4 609 permits inquiry into the facts underlying a
5 conviction, under Rule 608(B), if the conviction
6 itself is inadmissible, I don't think the Court
7 should permit inquiry into those underlying facts
8 because those facts do not under 608(B) attack or
9 support the witnesses for Mr. Archuleta's character
10 for truthfulness.

11 Y'all will remember at the beginning of
12 the trial, after we put the PowerPoint up there, the
13 Court concluded that when evidence of a witness'
14 conviction is admitted under 609, a further inquiry
15 into the facts underlying that conviction is not
16 permitted under 608(B). And I concluded that when a
17 conviction resulted from a set of facts but evidence
18 of that conviction is not introduced, then I said
19 60-B (sic) inquiry is permissible. But I didn't
20 address situations where the evidence of a witness'
21 conviction is not admitted under Rule 609, because
22 Rule 609 renders that evidence inadmissible.

23 So I'm having to make that ruling now, and
24 thus the facts underlying Mr. Archuleta's two
25 convictions, which are both homicide offenses, don't

1 go to Mr. Archuleta's character for truthfulness.

2 So the facts cannot come in, as well.

3 As far as the issue of Cupit, I'm not yet
4 convinced -- the Government hasn't convinced me that
5 showing that the SNM now exists as an enterprise
6 engaged in racketeering activity is not -- that's
7 not an element of the offense. The U.S. has to show
8 instead that the SNM was an enterprise engaged in
9 racketeering activity when the charged offenses were
10 committed. And in Mr. Christopher Chavez's case,
11 that means 2007. I'm not sure how probative recent
12 calls are going to be of that. Certainly if there
13 is a stipulation that around 2007 the SNM was an
14 enterprise engaged in racketeering activity around
15 2007 and that Mr. Chavez was a member at that time,
16 then Mr. Cupit's testimony would be excessive,
17 unnecessary; but I'm not sure we have that on the
18 table. So still thinking about that. But those are
19 my thoughts.

20 Let's take our break. I need to give
21 Ms. Bean a break. Maybe we'll have some time for
22 further argument on it. But I think I pretty much
23 ruled on those. We'll be in recess for about 15
24 minutes.

25 (The Court stood in recess.)

1 THE COURT: All right. I think I've got
2 each defendant in the courtroom, and an attorney for
3 each defendant.

4 Mr. Castle, do you want to go ahead?

5 MR. CASTLE: Yes, Your Honor.
6 Unfortunately the witness is here. I need to
7 discuss something.

8 THE COURT: Well, come up to the bench,
9 then.

10 (The following proceedings were held at
11 the bench.)

12 MR. CASTLE: It's our contention that the
13 reason Mr. Archuleta rose to the level that he did
14 was because of the criminal conduct that he had
15 committed. Okay? And so we believe it's relevant
16 to show his status in the organization, number 1.
17 We've also done a notice under 609 indicating we
18 didn't want to go beyond the ten years. I have to
19 tell the Court it was all admitted as evidence in
20 Trial 1, and because of that, I relied on that, I
21 think it's a reasonable reliance in doing my
22 PowerPoint opening.

23 (The following proceedings were held in
24 open court.)

25 THE COURT: Tell them to come in. We'll

1 stand. All rise.

2 (The jury entered the courtroom.)

3 (The following proceedings were held at
4 the bench.)

5 MR. CASTLE: Your Honor, what I was saying
6 when I did my PowerPoint opening, I relied on what
7 was admitted in Trial 1, and this was admitted in
8 Trial 1 against Gerald Archuleta. And now I'm going
9 to be in a position where we all know the damage
10 that could be caused when someone promises something
11 in opening statement that doesn't get delivered
12 during trial, especially as incendiary as these
13 prior matters.

14 So we're in a really hard place because it
15 was admitted in Trial 1, and now it's not being
16 admitted in Trial 2. What I would suggest is that
17 the Court permit under 609 this exception for this
18 witness, and perhaps just make that it we get
19 limited very few questions about those two cases
20 instead of elaborating on them. But otherwise,
21 we're in a real hard place here because I think we
22 can reasonably rely on what was admitted in a
23 previous trial as a road map to what would be
24 admitted here. And if there wasn't a prior trial
25 and I was going out on a limb and making my own

1 guesses on it, that would be one thing. But you
2 know that's a problem we face.

3 MR. BECK: I think it would probably be
4 unfair for the United States to point out that they
5 didn't get in evidence when the United States moved
6 to keep it out. So I will not be making that point
7 in my closing, that there was information in opening
8 that was not brought into evidence.

9 THE COURT: Let me do this. Let me think
10 about it a little bit. Before we close with
11 Archuleta, you can approach and see if I think -- I
12 still think the convictions probably ought to stay
13 out. The question is whether I allow you to get
14 into -- ask a few questions about the facts to prove
15 your point that these helped him rise to the status.
16 I'll give that some thought and you can approach
17 before it's over, and if I decide that some facts
18 ought to come out on that...

19 MR. CASTLE: I think opening statement
20 didn't refer to convictions. Actually, I think he
21 just said he murdered --

22 THE COURT: Murdered other people.

23 MR. BENJAMIN: Your Honor, if I may.

24 THE COURT: Let me do this. Let me get on
25 with the testimony and we'll come back up here

1 before Mr. Beck closes his direct.

2 MR. BENJAMIN: Your Honor, I understand
3 the Court's view. I just want to say there are
4 specific facts that I'd like to address so the Court
5 could consider the reason for those.

6 (The following proceedings were held in
7 open court.)

8 THE COURT: All right. Mr. Beck, if you
9 wish to continue your direct examination of
10 Mr. Archuleta.

11 And Mr. Archuleta, I'll remind that you're
12 still under oath.

13 MR. BECK: Yes, Your Honor, thank you.

14 BY MR. BECK:

15 Q. Mr. Archuleta, where we left off, we were
16 talking about the Leroy Torres or Junior hit. Do
17 you remember that?

18 A. Yes, sir.

19 Q. You said that -- when we left off, you
20 said that Marty Barros ordered the hit because he
21 was being talked about.

22 A. Yes, sir.

23 Q. Why would it be an SNM-approved hit if one
24 SNM leader is just talking about another SNM leader?
25 Why is that SNM business?

1 A. It's two individuals that are in the SNM
2 and it's one SNM member disrespecting another SNM
3 that carries a position of authority.

4 Q. So is the SNM rule that disrespect results
5 an automatic green light? Is that true for members
6 and even people who aren't members of the SNM alike?

7 A. As far as disrespecting the structure,
8 members disrespecting other members that have
9 position of authority, yes.

10 Q. And after Marty Barros called the hit,
11 what did you do and what happened?

12 A. I sent word for Freddie Munoz. Frederico
13 Munoz made it happen.

14 Q. I want to talk to you about a time that
15 you were sent to the prison in Hobbs, New Mexico,
16 and a hit of two people that went down
17 simultaneously there. Do you remember that
18 incident?

19 A. Yes, sir.

20 Q. What happened?

21 A. Upon arrival at the Hobbs correctional
22 facility, I became aware of two Aryan Brotherhood
23 members that were in the facility. At that time we
24 were at war with the Aryan Brotherhood, and we hit
25 them.

1 Q. Who put together or called that hit?

2 A. I did.

3 Q. When you arrived at Hobbs at this time,
4 were you the first SNM member at Hobbs, or were
5 there other SNM members there when you arrived?

6 A. There were other SNM members when I
7 arrived. But with my position in the S, those that
8 were calling the shots stepped down, I stepped up,
9 and resumed what I was there to do, and that was
10 clean house with the Aryan Brotherhood.

11 Q. So even though -- let me ask you that.
12 Before -- since there was that rivalry going on with
13 the AB before that, should those -- in your opinion,
14 should those two ABers have been hit even before you
15 arrived there?

16 A. They should have, yes.

17 Q. But what happened when you arrived there?

18 A. I made it happen as a result of my
19 position, which was recognized by other SNM members.
20 I was there to do my duty as an SNM leader, and at
21 the time there was an advocate war with the Aryan
22 Brotherhood, and I commenced with the war.

23 Q. And were those Aryan Brotherhood members
24 hit after you arrived there and commenced the war
25 with them?

1 A. Yes, sir.

2 Q. I want to talk to you about a murder in
3 Bernalillo County Detention Center in 2000. Do you
4 remember that?

5 A. Yes, sir.

6 Q. What were the circumstances of that
7 murder?

8 A. There was an individual that came into the
9 facility and was placed in an SNM pod. He was a
10 former member of the SNM that had papers on him,
11 which are papers indicating that he had informed on
12 another SNM murder.

13 Q. What's the SNM rule for an SNM member who
14 informs or talks to law enforcement?

15 A. Execution.

16 Q. Why were you in BCDC? Is that the
17 Bernalillo County Detention Center?

18 A. Yes, sir.

19 Q. Is that in Albuquerque?

20 A. Yes, sir.

21 Q. Why were you there as opposed to PNM or
22 Southern or an actual correctional facility?

23 A. I was currently on parole in Albuquerque,
24 New Mexico. I picked up a dirty urine. I was to be
25 held in county jail on a 72-hour violation period.

1 I got there Friday, I believe; I was getting out
2 Monday, and they brought Matthew Cavalier in the pod
3 on Saturday.

4 Q. And what happened, in your mind, when they
5 brought Matthew Cavalier in?

6 A. That I probably wasn't getting out.

7 Q. What happened? Did Matthew Cavalier come
8 and talk to you while you were there?

9 A. Yes, sir.

10 Q. And in that conversation did he ask you
11 about whether he was going to be hit?

12 MR. BENJAMIN: Objection, hearsay, Your
13 Honor.

14 MR. BECK: It's a question, Your Honor.
15 It's not offered for the truth. It's just a
16 question.

17 THE COURT: Just a yes/no answer.
18 Overruled.

19 A. Repeat the question.

20 BY MR. BECK:

21 Q. Did Matthew Cavalier ask you about whether
22 he was going to be hit there in BCDC?

23 A. Yes, he addressed the issue.

24 Q. And did you tell him that you were putting
25 together a team to hit him?

1 A. No, sir.

2 Q. Did you instead make him feel at ease?

3 A. Yes, I did.

4 Q. Did you actually put together a team to
5 hit Matthew Cavalier?

6 A. Yes, I did.

7 Q. What happened?

8 A. We had a meeting, three other brothers.

9 Q. Who was at the meeting?

10 A. Freddie Martinez, Shadow; Rabbit, which is
11 Samuel Silva; and Francisco Villalobo, which is
12 Paco.

13 Q. What did you discuss at the meeting?

14 A. We discussed how the execution was going
15 to take place of Matthew Cavalier.

16 Q. And how did you all plan for the execution
17 of Matthew Cavalier to take place?

18 A. Make him feel at ease. Invite him in the
19 room, smoke some cigarettes, maybe do some drugs.
20 At that time, I was going to walk out of the room
21 when they started to light their cigarette. I am a
22 nonsmoker. And Francisco was to grab him by the
23 legs. Rabbit was to grab him by the shoulders,
24 pinning his arms, and Shadow was to strangle him.

25 Q. Was Matthew Cavalier murdered at the BCDC?

1 A. Yes, he was.

2 Q. And did it go down as you all planned?

3 A. Yes, it did.

4 Q. Was Mr. Cavalier found immediately?

5 A. No, sir.

6 Q. How long did it take? How long did it
7 take the BCDC to find Matthew Cavalier's body?

8 A. Maybe a couple of days.

9 Q. Do you know how they came to find out
10 there was a body in the BCDC? And by "they," I
11 mean: Do you know how BCDC came to find out there
12 was a body in the cell? It's just a yes-or-no
13 question?

14 A. Repeat the question.

15 Q. Yes or no, do you know how BCDC came to
16 find out that Matthew Cavalier's body was in the
17 cell?

18 A. Yes.

19 Q. And based on your belief, did they have
20 information before they actually went into the cell
21 and found him there?

22 A. Yes, they did.

23 Q. Who is Kelly Mercer?

24 A. Kelly Mercer is a brother of the SNM that
25 was in the pod at the time that Matthew Cavalier was

1 executed.

2 Q. Did you ever coordinate a hit on Kelly
3 Mercer?

4 A. Yes, I did.

5 Q. Why?

6 A. Because he was informing on the Cavalier
7 murder case.

8 Q. With whom did you talk to coordinate this
9 hit?

10 A. Julian Romero, another high-ranking
11 brother in the SNM.

12 Q. And what happened while you -- let me ask
13 you, how did you communicate with Julian Romero
14 about the Kelly Mercer hit?

15 A. It's common practice among brothers that
16 are in prison to use their visitors or their wives
17 to communicate during the visit and go out on the
18 street and pass on the message to brothers on the
19 street.

20 Q. Is that how you communicated with Julian
21 Romero?

22 A. Yes, sir.

23 Q. Was it through your wife, Lilly?

24 A. Yes, sir.

25 Q. What happened with Julian Romero and Lilly

1 while you were communicating the Kelly Mercer hit?

2 A. They had an affair.

3 Q. What happened as a result of the affair
4 that Julian -- let me ask you: Is it against the
5 rules of SNM to have an affair or relationship with
6 another brother's wife or girlfriend?

7 A. Yes, sir.

8 Q. And as a result of that, what did you do
9 when you found out about Julian Romero and your
10 wife?

11 A. I seeked approval to green light him.

12 Q. And who ordered the green light of Julian
13 Romero?

14 A. Angel Munoz.

15 Q. And why did you -- what was Angel Munoz '
16 position at the time?

17 A. At the top.

18 Q. And did you seek his approval because
19 Julian Romero was another high-ranking SNM member at
20 the time?

21 A. Yes, I did.

22 Q. And after you received Angel Munoz '
23 approval for the Julian Romero hit, what happened?

24 A. A plan was come up with, and he was shot
25 on the streets.

1 Q. Who shot Julian Romero on the streets?

2 A. Freddie Munoz and Shamon Pacheco, two
3 brothers of the SNM.

4 Q. I want to talk to you about a couple more
5 things. Did you eventually put a hit on -- or did
6 you ever put a hit on someone named Baby Zack?

7 A. Yes, I did.

8 Q. Who is Baby Zack?

9 A. Billy Garcia's nephew and fellow SNM
10 member, gang member.

11 Q. And we'll get into this later on, but was
12 this as a result of Baby Zack trying to shoot you?

13 A. Yes, it was.

14 Q. And did you take that as disrespect to the
15 SNM when he tried to shoot you?

16 A. Yes, it was an unsanctioned hit.

17 Q. Did you ever call a hit on Bernalillo
18 County Sheriff Darren White?

19 A. No, I didn't.

20 Q. Why do you think people thought you called
21 a hit on Darren White?

22 A. At the time I placed a hit on Baby Zack
23 and all the details that came out that pertained to
24 the Baby Zack hit were explained, and the Darren
25 White hit, and I don't know how Darren White's name

1 came up, but the actual hit was on Baby Zack, and
2 not Darren White.

3 Q. So at the time that you -- how did you
4 find out that there was an alleged hit by you on
5 Darren White?

6 A. Through the news.

7 Q. And when you heard about it through the
8 news, were the details you heard spot-on for the hit
9 that you had put on Baby Zack?

10 A. Yes, they were.

11 Q. Did you tell everyone at that point that,
12 "No, I didn't put a hit on Darren White"? Did you
13 disavow that?

14 A. I don't think I did, no.

15 Q. Why?

16 A. Well, it added to my credibility as a gang
17 member, my notoriety. It made me look -- put me in
18 the limelight as an SNM Gang leader.

19 Q. Let me ask you, in becoming an SNM Gang
20 leader, does a violent background play into becoming
21 an SNM leader?

22 A. I think it does.

23 Q. What do you think about that? Why?

24 A. Those are the kind of people that the SNM
25 are looking for, people of violence, people that are

1 willing to commit violence without questioning it.

2 Q. Do you think that your violent background,
3 including your willingness to hit the ABers who were
4 already at Hobbs with SNM members, but you going in
5 and making it happen -- do you think that
6 contributed to you being a leader in the SNM?

7 A. I think the contributed to my recognition
8 as a leader of the SNM.

9 Q. Do you think that your murder -- planning
10 the murder of Matthew Cavalier contributed to being
11 an SNM leader?

12 A. Yes, it did.

13 Q. Do you think generally that those
14 qualities, participating and planning assaults and
15 murders help one become an SNM leader?

16 A. Yes, it does.

17 MR. BECK: May we approach, Your Honor?

18 THE COURT: You may.

19 (The following proceedings were held at
20 the bench.)

21 MR. BECKER: Probably at this point I'd
22 like to get into the pen pack.

23 THE COURT: Well, I don't think how
24 Mr. Archuleta achieved his position in the SNM -- I
25 don't think that's a fact or a consequence in

1 determining the action. So I'm going to keep out
2 Mr. Archuleta's convictions that are postdated ten
3 years, and I don't think those are going to be
4 admissible for that purpose. I don't think the
5 facts underlying it are going to be admissible under
6 401, 402, so I think we'll just keep all that out on
7 both sides.

8 Go ahead, Mr. Benjamin.

9 MR. BENJAMIN: Your Honor, there is a
10 direct line -- and I apologize to anybody in the
11 transcript -- but there is a direct line in the
12 transcript where he says he got invited in by the
13 Chaparro hit mainly because he had two murders when
14 he went in. So I think that leads to his leadership
15 position, his ultimate footing.

16 THE COURT: I just said I don't think this
17 is a matter of consequence, how he got into the
18 leadership position. This is not what this trial is
19 about.

20 MR. BENJAMIN: I think that's what he's
21 being sponsored for, Your Honor, and then the bias.
22 He used -- he escaped those two murders -- the
23 murder of Matthew Cavalier, the 12 assaults.
24 There's violent -- placed in leadership position
25 with the AB, which is what was just brought out, the

1 murder (sic) of Darren White that he didn't avow,
2 that was brought out. There are several of these
3 things.

4 But more importantly, an ongoing theme in
5 this trial has been the Julian Romero hit. And
6 Julian Romero -- it's his second wife that he
7 essentially says that he didn't want to have killed.
8 The first one he had killed was because it was an
9 affair.

10 THE COURT: These convictions we're
11 talking about are not the Julian Romero one.

12 MR. BENJAMIN: No, but they relate back
13 specifically to his argument that --

14 THE COURT: Well, there has got to be some
15 limit to what we're doing here. We're writing a
16 history book now, rather than trying a case, and I
17 don't think how he got into the SNM leadership is an
18 issue of consequences in this trial. So we're not
19 going to go back to it.

20 MR. BENJAMIN: Your Honor, it also relates
21 to his character of truthfulness.

22 THE COURT: Okay. How long are you going
23 to argue this?

24 MR. BENJAMIN: I understand, Your Honor.
25 I'm just trying to make a record.

1 THE COURT: Well, it doesn't relate to his
2 truthfulness because it's ten years back. So I
3 already ruled.

4 MR. CASTLE: I have something else
5 completely different to discuss with the Court. The
6 prosecution now has reiterated on numerous occasions
7 that in order to become a leader, you have to have
8 been a violent person and ordered a lot of violent
9 acts. That is propensity evidence that is being
10 offered to show that our client acted in conformity
11 in the particular instance in 2001. There has been
12 no limitation, and so what we're going to request is
13 the Court issue a limiting instruction at this point
14 in time, and we're going to also draft one that has
15 to go in the packet because it's constant, constant,
16 constant propensity evidence that's been put on, and
17 it may.

18 THE COURT: I think we crossed this bridge
19 long ago which I said this is coming in for
20 racketeering, and it's probably not going to be
21 successful. I'll look at whatever you want, but I
22 think we made that decision months before trial.

23 MR. CASTLE: As long as to our record is
24 preserved, then.

25 THE COURT: All right.

1 (The following proceedings were held in
2 open court.)

3 THE COURT: All right, Mr. Beck.

4 MR. BECK: Your Honor, at this time the
5 United States moves into evidence Government's
6 Exhibit 628-A, which are documents from Mr. Gerald
7 Archuleta's pen pack.

8 THE COURT: All right. Any objection?
9 Not seeing or hearing any objection, Government's
10 Exhibit 628 will be admitted into evidence.

11 (Government Exhibit 628 admitted.)

12 BY MR. BECK:

13 Q. Mr. Archuleta, I'm going to show you the
14 first page of what's been admitted as Government's
15 Exhibit 628-A. Is that your name and New Mexico
16 Corrections Department number on the front of this
17 pen pack?

18 A. Yes, it is.

19 Q. I'm going to take you to Bates 8874. Is
20 this an amended judgment, partially suspended
21 sentence and commitment of yours for a no contest
22 plea to conspiracy to commit second-degree murder?

23 A. Yes, it is.

24 Q. And was that the plea agreement you
25 entered related to the Matthew Cavalier murder that

1 you told us about?

2 A. Yes, it was.

3 Q. For this crime were you sentenced to six
4 years plus four years as a habitual offender with
5 six years suspended for a total sentence of four
6 years?

7 A. Yes, I was.

8 Q. I'm going to take you to Bates 8872. Is
9 this an order and commitment revoking your probation
10 and imposing a new sentence related to the Matthew
11 Cavalier murder?

12 A. Yes, it was.

13 Q. When you violated your probation, were you
14 then sentenced to the Corrections Department for the
15 total 10-year sentence?

16 A. Yes, I was.

17 Q. I'm going to show you Bates No. 8870. Is
18 this another order and commitment in 2005 for
19 violating your probation again?

20 A. Yes, it was.

21 Q. And then again, were you sentenced to a
22 total of 10 years for that second-degree murder plea
23 agreement?

24 A. Yes, I was.

25 Q. I'm going to take you to Bates 8865. If

1 we could go to the next page of this judgment,
2 sentence and commitment. In 2008 did you plead
3 guilty to conspiracy to commit aggravated battery
4 with a deadly weapon, possession of a firearm or
5 destructive device by a felon, and breaking and
6 entering?

7 A. Yes, I did.

8 Q. And were you sentenced to 18 months plus
9 four years as a habitual offender for each count?

10 A. Yes, I was.

11 Q. So were you sentenced to an actual term of
12 seven years?

13 A. Yes, I was.

14 Q. And was this 2008 guilty plea related
15 to -- what was this for? The shooting with Baby
16 Zack that happened that you told us about?

17 A. Yes, it was.

18 Q. And then after this conviction, were you
19 released from New Mexico Corrections Department in
20 2011?

21 A. Yes, I was.

22 Q. In 2015, were you arrested in connection
23 with this case?

24 A. Yes, I was.

25 Q. And when did you agree to cooperate with

1 the Government?

2 A. When I was arrested.

3 Q. Why did you agree to cooperate at that
4 time?

5 A. I had already walked away from the S,
6 which is why I yes left to Tennessee. I wanted
7 something better for myself and for my son, and I
8 cooperated.

9 Q. So when you said you moved to Tennessee
10 with your son, was that in 2011, after you were
11 released from prison?

12 A. Yes, it was.

13 Q. Why did you move to Tennessee?

14 A. To get away from the SNM. If you want to
15 change your gang ways, you can't go back to the same
16 environment. You have to get as far away from the
17 gang as you can.

18 Q. Did you tell all the SNM members at that
19 time that you were renouncing the gang and leaving
20 the gang and never speaking to them again?

21 A. No, I didn't.

22 Q. Did you communicate with SNM members
23 throughout the period of 2011 to 2015?

24 A. Yes, I did.

25 Q. Why?

1 A. To obtain Suboxone from New Mexico.

2 Q. Why did you obtain Suboxone through New
3 Mexico?

4 A. I battled my addiction the whole time I
5 was in prison. I had an addiction problem. In
6 Tennessee Suboxones were three times as expensive as
7 they were in New Mexico.

8 Q. Did any SNM members call you about a 2015
9 assault on Julian Romero?

10 A. Yes, they did.

11 Q. Did you tell them at that time that you
12 didn't want to hear about it; you were no longer an
13 SNM member?

14 A. I heard about it. I did not tell them I
15 was no longer an SNM member.

16 Q. Did you ever receive a call about a hit on
17 Secretary of -- then Secretary of Corrections
18 Marcantel?

19 A. I cannot recall ever getting a call
20 addressing the Marcantel hit.

21 Q. Did you ever get a call with someone named
22 Pup or Anthony Ray Baca on the other line?

23 A. I did.

24 Q. What happened on that call?

25 A. Most of the conversation was in Spanish.

1 Q. Do you speak Spanish?

2 A. I don't speak Spanish.

3 Q. All right. That's fine. After your
4 arrest in 2015, when you agreed to cooperate, did
5 you agree to wear a wire for the Government at that
6 time?

7 A. Yes, I did.

8 Q. Did you wear a wire into the prison and
9 record other SNM members?

10 A. Yes, I did.

11 Q. Were the SNM members -- or was an SNM
12 member that you recorded later charged with a crime?

13 A. Yes, they were.

14 MR. BECK: At this time, Your Honor, I
15 would move for the admission of Government's
16 Exhibits 631 and 632, Mr. Archuleta's plea agreement
17 and addendum.

18 THE COURT: Any objection from any
19 defendant? Not seeing or hearing any objections,
20 Government's Exhibit 631 and 632 will be admitted
21 into evidence.

22 (Government Exhibits 631 and 632
23 admitted.)

24 BY MR. BECK:

25 Q. Mr. Archuleta, I'm going to show you

1 Government's Exhibit 631. Do you recognize this as
2 your plea agreement in this case that you entered
3 into on June 16 of 2016?

4 A. Yes, I do.

5 Q. And if we could go to the next page,
6 please. June 16 of 2016. Was that about only six
7 months after you were arrested in this case?

8 A. Yes, it was.

9 Q. And did you plead guilty to Count 8, which
10 was violent crimes in aid of racketeering,
11 conspiracy to commit assault resulting in serious
12 bodily injury?

13 A. Yes, I did.

14 Q. Was that for the Julian Romero assault in
15 2015?

16 A. Yes, it was.

17 Q. And was that all the crimes that you were
18 charged with at that time?

19 A. That was my only charge, yes, it was.

20 Q. And is the maximum sentence for that
21 charge imprisonment of three years?

22 A. Yes, it was.

23 Q. I'm going to show you Government's Exhibit
24 632. Is this -- do you recognize this as the
25 addendum to your plea agreement?

1 A. Yes, I do.

2 Q. And what does this plea agreement require
3 of you? What does this addendum require of you?

4 A. My honest testimony.

5 Q. And if you're not honest, does the United
6 States have the right to rescind the plea agreement
7 and reinstitute criminal proceedings against you?

8 A. Yes, it does.

9 Q. Okay. Do you understand that to mean that
10 the United States can revoke the entire plea
11 agreement and bring additional charges against you
12 at that time?

13 A. Yes, I do.

14 Q. Thank you. When you agreed to cooperate
15 and wire up going inside the prison, were you signed
16 up by the FBI as a confidential human source?

17 A. Yes, I was.

18 Q. And were you paid by the FBI as a
19 confidential human source?

20 A. Yes, I was.

21 Q. At some point were you terminated as a
22 confidential human sources by the FBI?

23 A. Yes, I was.

24 Q. Why were you terminated?

25 A. For downloading pornography on my tablet.

1 Q. Did you reset your tablet to download the
2 pornography on it?

3 A. Yes, I did.

4 Q. And did you know at the time that what you
5 were doing was wrong?

6 A. I knew that I shouldn't probably be doing
7 it.

8 Q. When you had the tablet -- let me ask you
9 this. When you reset the tablet, did it erase all
10 the discovery on the tablet?

11 A. Yes, it did.

12 Q. Before that time, did you review the
13 discovery on the tablet?

14 A. A little bit of it. I reset it
15 immediately.

16 Q. And why did you only review a little bit
17 of it in discovery?

18 A. Because the topic that we could reset and
19 gain internet access came up.

20 Q. During the time that you were -- after you
21 wore a wire and before you were terminated, did you
22 receive about \$2,400 in payments by the FBI?

23 A. Yes, sir.

24 Q. During the time that this case was pending
25 when you were a confidential informant, did you do

1 drugs in the prison?

2 A. I did.

3 Q. What drugs did you do?

4 A. Suboxone.

5 Q. And with whom did you do those drugs?

6 A. With the other cooperators.

7 Q. And when was the last time that you did
8 drugs in prison?

9 A. Christmas.

10 Q. I'm going to show you, let me ask you --

11 MR. BECK: Well, may I have a moment, Your
12 Honor?

13 THE COURT: You may.

14 MR. BECK: Your Honor, at this time the
15 United States moves into evidence Government's
16 Exhibit 987.

17 THE COURT: Any objection from any
18 defendant? Not seeing or hearing any objection,
19 Government's Exhibit 987 will be admitted into
20 evidence.

21 (Government Exhibit 987 admitted.)

22 BY MR. BECK:

23 Q. Mr. Archuleta, do you recognize any of the
24 gentlemen depicted in this photograph?

25 A. Yes, I do.

1 Q. All right. And who do you recognize? And
2 if you want to, you can touch the screen. I know
3 you've got cuffs on, but if you can touch the screen
4 above their heads when you point them out.

5 A. This is Julian Romero, Huesos.

6 Q. So the first one on the top left, that's
7 Julian Romero?

8 A. Yes, it is.

9 Q. And the second one from the left there
10 that you just marked on, who is that?

11 A. Huesos from Barelás.

12 Q. Who else do you recognize?

13 A. Bobby Ortega, Billy Garcia.

14 Q. So then on the top level, the second from
15 the right, did you say Bobby Ortega?

16 A. Yes.

17 Q. Does he go by any other names?

18 A. Babalu.

19 Q. And then on the top right, that's Billy
20 Garcia; is that right?

21 A. Yes, sir.

22 Q. And let me ask you: Bobby Ortega -- well,
23 are all those men you just identified -- Julian
24 Romero, Huesos, Bobby Ortega and Billy Garcia -- SNM
25 members?

1 A. Yes, they are.

2 Q. Do you recognize anyone else in this
3 photograph?

4 A. Yes, I do.

5 Q. Who else?

6 A. I recognize BB on the bottom.

7 Q. So on the bottom left, BB -- is that
8 Javier Rubio?

9 A. Yes, it is.

10 Q. Is he an SNM member?

11 A. Yes, he is.

12 Q. Bobby Ortega. Does he go by any other
13 names?

14 A. Babalu, Bunjy Bob, Bobby Ortega, Robert
15 Ortega.

16 Q. Did anything happen to Babalu or Bobby
17 Ortega, if you know?

18 A. He was executed by fellow gang members.

19 Q. When you say "fellow gang members," were
20 those fellow SNM Gang members?

21 A. Yes.

22 Q. When the hit was placed on Julian Romero,
23 did that cause a division within the SNM Gang?

24 A. It did.

25 Q. And what happened to -- or let me ask this

1 question. At that time or closely after that time
2 was it when you became the leader of the SNM?

3 A. Will you repeat the question?

4 Q. Sure. At the time that the green light
5 was placed on Julian Romero, is that a time when you
6 were the leader, or did you closely after that
7 become the leader of the SNM?

8 A. I had a position of authority in the SNM.

9 Q. How long after that did you become the
10 leader of the SNM, hold the keys from Angel?

11 A. After -- when Angel died, people
12 recognized my position. But there was a circle of
13 leaders, but I had a position of authority with my
14 own following.

15 Q. Where did Billy Garcia fall in that
16 division of the SNM?

17 A. He was close friends with Julian Romero.
18 He was a high-ranking member of the SNM, along
19 with -- he was in the same circle as Angel Munoz or
20 Marty Barros, Phillip Cordova. That's where he fell
21 in.

22 Q. At some point when you were on the
23 streets, did you have a conversation with Billy
24 Garcia about the green light on Julian Romero?

25 A. Yes, I did.

1 Q. Do you know approximately when that was?

2 A. It was approximately 2005, shortly after
3 my parole.

4 Q. What happened?

5 A. We discussed Julian Romero. We arranged a
6 sit-down for me and Billy on Barcelona Road. Chris
7 Garcia brought him to my house. He exited the
8 vehicle. He looked really pissed off. He was
9 upset, obviously, about the Julian issue.

10 Q. Who is "he"?

11 A. Billy Garcia.

12 Q. And is Chris Garcia the same SNM member
13 that provided you drugs when you hit the streets?

14 A. Yes, he is.

15 Q. So when Billy Garcia came to your house
16 looking angry, what happened?

17 A. He started off by saying that what
18 happened to Julian wasn't right; that I shouldn't
19 have got the brothers involved; that it was
20 personal, and sarcastically why didn't I do it
21 myself.

22 Q. What did you say?

23 A. I responded with, "Serious, Billy? How
24 about Pancho? Why didn't you do that yourself and
25 how was that legit?"

1 Q. And who is Pancho?

2 A. Pancho is someone that was also executed,
3 a fellow SNM Gang member.

4 Q. When you were asking him, "Why didn't you
5 do that yourself," in relation to Pancho, what were
6 you asking him about?

7 A. Well, I was comparing the two issues. He
8 was alleging that Julian's issue was not legitimate
9 and why didn't I do it myself. I always considered
10 the Pancho issue, where Pancho was executed -- I
11 never considered that legit, so I used that as an
12 example as to how was that legit and why didn't he
13 do that himself.

14 Q. And after you asked him, "How was Pancho
15 legit? Why didn't you do that yourself?" what did
16 Billy Garcia say?

17 A. He responded by telling me that he called
18 that hit on Pancho because Pancho was writing kites
19 at the Main facility, that Pancho wasn't worth a
20 fuck, and that everything he called was legit. But
21 that issue, me and Julian, wasn't legit, and it was
22 personal.

23 Q. And what did you say then?

24 A. I told him that he should have been one of
25 the dudes to acknowledge that Julian fucked up, and

1 he didn't; and that we were way past that at that
2 time, and that he was either with me or against me.

3 Q. And the Pancho that you and he were
4 referring to -- is that Frank Castillo, who was
5 killed at Southern in 2001?

6 A. Yes, it was.

7 Q. Did you and I meet to prepare for your
8 testimony in this trial back at the end of March?

9 A. We may have. I don't remember exactly the
10 month. But yes, we've met.

11 Q. Did we meet a couple weeks back to prepare
12 for your testimony in this trial?

13 A. Yes, we did.

14 Q. At that meeting did I ask you questions
15 about the men in this room, defendants in this room,
16 and whether you'd ever talked to them or gotten
17 statements from them in the past?

18 A. You asked me if I knew them.

19 Q. Okay. And did we talk about things that
20 they've said to you over the years?

21 A. Yes, we did.

22 Q. I'd like to talk to you about some of
23 those. First of all, as a leader in the SNM and as
24 a member from 1988 to at least 2011, in your
25 experience, could a simultaneous double murder

1 happen at a prison facility with SNM members without
2 the keyholder at that facility ordering those two
3 murders?

4 MR. COOPER: Objection, leading.

5 THE COURT: Overruled.

6 A. No, it couldn't.

7 BY MR. BECK:

8 Q. Why?

9 A. Because it was well-coordinated. Several
10 SNM Gang members were involved.

11 MR. BENJAMIN: Objection, Your Honor. I
12 think the question, especially with the first
13 answer, is invading the province of the jury.

14 THE COURT: Overruled.

15 A. Would you repeat the question?

16 BY MR. BECK:

17 Q. Yeah. So my question was: Why couldn't a
18 simultaneous murder of two SNM members happen at
19 Southern without the main keyholder calling those
20 murders?

21 A. First, because they were members of the
22 SNM; and in order for two members of the SNM to be
23 hit, they would have to have approval by the top dog
24 there.

25 Q. In your knowledge of the SNM, in your

1 experience with the SNM, can you think of another
2 time in which two SNM members were killed
3 simultaneously by other SNM members?

4 A. No, I can't.

5 Q. Was it before or after your conversation
6 with Billy Garcia about Pancho that the incident
7 with Baby Zack happened?

8 A. We had a conversation before the incident
9 with Baby Zack.

10 Q. I want to talk to you about Christopher
11 Chavez. Do you know Christopher Chavez?

12 A. Yes, I do.

13 Q. Do you know him as an SNM Gang member?

14 A. Yes, I do.

15 Q. I want to talk to you next about Edward
16 Troup. Do you know Edward Troup?

17 A. Yes, I do.

18 Q. What was your relationship with Edward
19 Troup?

20 A. He was a close brother. He was under me.

21 Q. Did you ever do time with Edward Troup?

22 A. Yes, I have.

23 Q. Where did you do most of your time
24 together?

25 A. At the Main. We done time at the North

1 facility was probably most of the time.

2 Q. Did you ever have a conversation with
3 Edward Troup about Fred Dawg?

4 A. Yes, I did.

5 Q. I want to talk to you a little bit about
6 that. But before we get there, before the Fred Dawg
7 murder happened, did you have a conversation with
8 Troup about doing something when he moved down to
9 Southern?

10 A. Yes, I did.

11 Q. Tell us about that. First of all, how did
12 you and Edward Troup know that he was due to move
13 down to Southern New Mexico Correctional Facility?

14 A. He was in the process of completing Level
15 6 onto Level 5, onto Level 4. We knew it was going
16 to be a process, but that he would eventually get
17 there.

18 Q. And what did you discuss with Mr. Troup
19 about going down to Southern when he went there?

20 A. There was an SNM Gang member by the name
21 of Cheeky. I believe his name is Brian Rascon. We
22 discussed a green light on him, hitting him.

23 Q. And why did you discuss putting a green
24 light and hitting Cheeky Rascon?

25 A. Cheeky was a close friend of Julian

1 Romero, and he would always vocalize as to how he
2 looked up to Julian, and how we basically fucked up
3 when we hit Julian.

4 Q. And what did you tell Troup he was
5 supposed to do when he got down to Southern
6 regarding Cheeky Rascon?

7 A. To make an example out of him, to hit him.

8 Q. After the Fred Dawg murder, did Troup
9 return to the North facility?

10 A. Yes, he did.

11 Q. Did you have a conversation with him
12 there?

13 A. Yes, I did.

14 Q. What happened in that conversation?

15 A. I asked for an explanation why Cheeky
16 wasn't hit.

17 Q. And what did Edward Troup tell you?

18 A. He explained to me that he was there with
19 Cheeky, but that he had got word from Cyclone,
20 Benjamin Clark, that orders came from the North,
21 from Arturo Garcia, that the hit on Cheeky was to be
22 called off and they were to hit Fred Dawg.

23 Q. Who was to hit Fred Dawg?

24 A. That Cheeky was to hit Fred Dawg along
25 with his brother, Raymond Rascon, and in exchange,

1 Cheeky would get a pass.

2 Q. Did he tell you whether Cheeky and his
3 brother did hit Fred Dawg?

4 A. Yes, he did.

5 Q. What did he tell you about that?

6 A. He told me that they were slow playing, it
7 didn't appear like they wanted to get it done,
8 nothing was happening, so that he took it upon
9 himself with Wino to murder Fred Dawg.

10 Q. And so he said he and who took it upon
11 themselves to murder Fred Dawg?

12 A. His name is Wino.

13 Q. And how is it that if you and Edward Troup
14 are in the same -- well, let me show you
15 Government's Exhibit 828. Do you recognize this as
16 an aerial view of the Penitentiary of New Mexico
17 North facility?

18 A. Yes. Yes, I do.

19 Q. Where did this conversation with Edward
20 Troup take place?

21 A. It took place in 3B, I believe. I believe
22 this is 3B.

23 Q. Did it happen inside of the unit or
24 outside in the yard?

25 A. It happened outside in the yard.

1 Q. And the yard -- you just marked the cages
2 at the bottom right of Exhibit 828 which I'm
3 circling now. Is that what you referred to as the
4 yard?

5 A. Yes, sir.

6 Q. Have you also heard that referred to as
7 Jurassic Park?

8 A. Yes, sir.

9 Q. And how is it that if you and Edward Troup
10 are not in the same pod at the North facility, how
11 could you get out to the yard with Edward Troup?

12 A. I was in V pod. I'm not sure what pod he
13 was in. Since we were in the same unit, we can
14 basically ask the CO throughout the week if he can
15 find a day that he can arrange it to put us together
16 and in exchange, we would each give up our yard for
17 a couple days each.

18 Q. And why would -- in your opinion, why
19 would that matter to a CO, if you're giving up a day
20 in exchange to go into the yard with Edward Troup?

21 A. It would be less work for the CO;
22 particularly like on his Friday, they would want --
23 they would prefer less inmates go to the yard as
24 possible.

25 Q. Are you escorted? Is each inmate at the

1 North escorted from his cell out to the yard
2 individually?

3 A. Yes. It would be less work for the COs if
4 they were to make deals for the yard.

5 Q. Thank you. I want to talk to you about
6 Arturo Garcia. How do you know Arturo Garcia?

7 A. He's a brother of mine and was my
8 right-hand man on the tabla.

9 Q. Were you close with Arturo Garcia?

10 A. Yes, I was.

11 Q. Did you and he -- let me ask you. Within
12 the gang, did he go by any other names?

13 A. Yes.

14 Q. What name did he go by just within the
15 gang?

16 A. Shotgun.

17 Q. And in your relationship with Mr. Garcia,
18 did you and he refer to each other by other names?

19 A. Yes, we did.

20 Q. What name was that?

21 A. Chopper 1, Chopper 2.

22 Q. I'm going to show you Government's Exhibit
23 586. I'll just show you the front of that. At some
24 point in time when you were incarcerated, were
25 inmates able to mail each other?

1 A. Yes, they were.

2 Q. And did Arturo Garcia send you letters?

3 A. Yes, he did.

4 Q. Is this one of the letters that he sent to
5 you?

6 A. Yes, it is.

7 Q. If we can go to page 2 of that, please.
8 Do you also go by the name of Jerry?

9 A. Yes, sir.

10 Q. And then in the first couple lines of
11 that, after the smiley face in the fourth line, can
12 you read to the jury or point out to the jury
13 whether he refers to you and he as Chopper 1 and
14 Chopper 2, like you said?

15 A. After the smiling face?

16 Q. Right.

17 A. Do you want me to read it?

18 Q. Sure.

19 A. "As long as Chopper 1 and Chopper 2 stay
20 true to each other, nobody can gas the caddy."

21 Q. Sure. Do you recognize this as a letter
22 that Arturo Garcia sent to you while you both were
23 incarcerated?

24 A. Yes, I do.

25 Q. Do you recognize that as his handwriting,

1 and how he refers to you as Chopper 1 and Chopper 2?

2 A. Yes.

3 MR. BECK: I'm sorry, Ms. Sroka was not
4 keeping a tight leash on me. Your Honor, the United
5 States moves to admit Government's Exhibit 586.

6 THE COURT: Any objection from any
7 defendant? Mr. Blackburn.

8 MR. BLACKBURN: 403, Your Honor.

9 THE COURT: I'll admit Government's
10 Exhibit 586.

11 (Government Exhibit 586 admitted.)

12 BY MR. BECK:

13 Q. And if we could put back up page 2 there.
14 And so in that sentence, is that where he refers to
15 you as Chopper 1 and Chopper 2?

16 A. Yes, it is.

17 Q. Where did those names come from?

18 A. They came from a handle that was being
19 used on walkie-talkies that were taken from
20 correctional officers during the 1980 riot, or
21 whenever it happened. It was a handle being used
22 by --

23 MR. BLACKBURN: Your Honor, I'm going to
24 object. There is not a question. Under 403.

25 THE COURT: I agree. I'm not seeing any

1 relevance, so I'll sustain.

2 BY MR. BECK:

3 Q. During the time that you served with
4 Arturo Garcia, was he a big hitter to the SNM?

5 A. Yes, he was.

6 Q. And what does that mean?

7 A. He had access to a lot of drugs.

8 Q. I think you said when you left the prison
9 in 2011, who did you give the keys to the SNM to?

10 A. To Arturo Garcia.

11 Q. When you were housed with Mr. Arturo
12 Garcia at the North, did you and he ever discuss the
13 Fred Dawg Sanchez murder?

14 A. Yes, we did.

15 Q. And where did this conversation take
16 place?

17 A. In unit 3B, in the yard.

18 Q. And what did you and Mr. Arturo Garcia
19 discuss?

20 A. I was interested in information why Cheeky
21 wasn't hit.

22 Q. What did he say?

23 A. He explained to me that during a roll call
24 he discovered --

25 Q. Let me stop you there. What's a roll

1 call?

2 A. A roll call is something that's used to,
3 either through a letter or through a courier, as to
4 find out exactly what brothers are in another
5 facility.

6 MR. BECK: And may I approach the witness,
7 Your Honor?

8 THE COURT: You may.

9 MR. BLACKBURN: May we approach, Your
10 Honor?

11 THE COURT: You may.

12 (The following proceedings were held at
13 the bench.)

14 MR. BLACKBURN: Although I know this was
15 discussed the other day with Benjamin Clark, it was
16 never introduced. This was the roll call thing. It
17 never made it out of the prison. It was
18 confiscated. He said he sent it to -- I think that
19 the roll call came down and it was supposedly
20 Mr. Garcia was to send it to his wife. He's never
21 seen this, this gentleman here, and I would object
22 to the introduction or even questions about it using
23 another document. I would assume he's asking if
24 this is what a roll call is about.

25 MR. BECKER: I'm just going to ask if this

1 letter appears to be consistent with a roll call.

2 THE COURT: That's it on this? Any
3 problem with that?

4 MR. BLACKBURN: Well, he's not going to
5 show the -- well, what relevance is it if a document
6 is not going to be --

7 THE COURT: Yeah, I tend to agree. I
8 guess I just don't see where it gets us to have a
9 witness confirm it, but we're not showing it to the
10 jury or anything.

11 MR. BECKER: I can just ask him if he's
12 seen a letter that appears to be a roll call.

13 MR. DAVIDSON: Without identifying --

14 THE COURT: I just don't think we're
15 getting much here. I'm going to sustain. Let's
16 move on. I think you've explained what a roll call
17 is.

18 MR. BECKER: That's fine.

19 (The following proceedings were held in
20 open court.)

21 THE COURT: All right, Mr. Beck.

22 BY MR. BECK:

23 Q. So what did Mr. Arturo Garcia tell you
24 about a roll call?

25 A. He explained that during a roll call, he

1 discovered that Fred Dawg Sanchez was in Southern
2 facility with Cheeky.

3 Q. And what did he say then?

4 A. He said that papers had came up on Fred
5 Dawg, and that he also became aware through the roll
6 call that Cheeky was with his brother in the same
7 pod, whose name is Coquito, I believe. He said that
8 he was concerned about a division in the pod amongst
9 brothers if Cheeky were to be hit, so that he
10 decided to substitute the hit with Fred Dawg, and
11 that Cheeky and his brother were to be the ones to
12 do it. In exchange, Cheeky would get a pass.

13 Q. During this conversation, did he tell you
14 with whom it was decided to substitute Cheeky with
15 Fred Dawg?

16 A. It was a decision made by him and the
17 tabla.

18 Q. Did he tell you with whom he sent orders
19 for the hit?

20 A. With Cyclone, Benjamin Clark, who was the
21 keyholder at the time at Cruces, Southern New
22 Mexico.

23 Q. Did he tell you whether the hit was called
24 off of Cheeky, or what did he tell you about Cheeky
25 after that?

1 A. Well, he said that Cheeky and Rascon
2 slow-played the incident, so Huero Troup and Wino
3 hit Fred Dawg, and that we can still -- not to
4 worry; that we can still hit Cheeky.

5 MR. BECK: May I have a moment, Your
6 Honor?

7 THE COURT: You may.

8 MR. BECK: Nothing further, Your Honor.

9 THE COURT: Thank you, Mr. Beck.

10 Who would like to start with the
11 cross-examination of Mr. Archuleta? None?

12 All right. Mr. Burke.

13 CROSS-EXAMINATION

14 BY MR. BURKE:

15 Q. Mr. Archuleta, would it be more accurate
16 to say rather than that you started to cooperate
17 right after your arrest on December 3, 2015, to say
18 that you started to cooperate after your immunity
19 letter on January 21, 2016? Would that be a more
20 accurate statement?

21 A. I believe I decided to cooperate before
22 that.

23 Q. Did you have a debriefing with the FBI
24 right away, or did you wait to have a debriefing
25 with the FBI until you had your immunity letter?

1 Would you like to see the immunity letter?

2 A. It was during the briefing, at which time
3 I signed the immunity letter.

4 Q. I'm sorry, sir? Say that again?

5 A. It was during the time of the debriefing
6 when I signed the immunity letter that I started
7 cooperating.

8 Q. So that --

9 A. But I gave intent to cooperate before
10 that.

11 Q. You did?

12 A. Yes, I believe I did.

13 Q. Yes, you did. When you were arrested in
14 Tennessee, you -- well, let me -- when you were
15 arrested in Tennessee, did you have something in
16 your mind that Playboy might have cooperated
17 already?

18 A. I believe I did, when they explained to me
19 that it was the Julian issue.

20 Q. I'm sorry, will you speak a little louder?

21 A. When they explained to me that I was being
22 charged with the Julian issue, I kind of felt that
23 Playboy was cooperating.

24 Q. Yeah. So now do you remember you blurted
25 out, "Playboy is talking"?

1 A. Yes, I remember.

2 Q. And that wasn't a big surprise to you
3 because Playboy had cooperated before; right?

4 A. I wasn't aware of his cooperation. I was
5 aware of him tapping out, walking away from the
6 gang.

7 Q. Okay. But as a result of your immunity
8 letter, you knew that you were not going to be
9 charged with anything you talked about; right?

10 A. Yes.

11 Q. But you did have the indictment, you saw
12 your name in the indictment; correct?

13 A. Yes, sir.

14 Q. And then everything else beside the beat
15 down on Julian Romero you were free to talk about;
16 correct?

17 A. I was free to talk about whatever I wanted
18 to talk about, whatever they were interested in.

19 Q. So one of the things you talked about was
20 Chaparro; correct?

21 A. Yes, sir.

22 Q. And that's a fellow that you stabbed in
23 the neck; right?

24 A. Yes, sir.

25 Q. And then another person you talked about

1 was Eddie Lopez. Do you remember that?

2 A. Yes, sir.

3 Q. What did you do to him?

4 A. I stabbed him.

5 Q. And now, with respect to both Chaparro and
6 Eddie Lopez, you were not charged; correct?

7 A. No, sir.

8 Q. And it wasn't made part of any RICO
9 indictment that followed the first indictment;
10 correct?

11 A. It was not.

12 Q. All right. And then you had this four-man
13 board, the tabla, when you took over from Mr. Munoz;
14 correct?

15 A. Yes, sir.

16 Q. And you fellows fashioned a plan to go
17 after the Aryan Brotherhood because they had stabbed
18 one or two of your brothers; correct?

19 A. Yes, sir.

20 Q. And you followed through on that and you
21 stabbed a couple of Aryan Brotherhood guys; correct?

22 A. I was responsible, yes.

23 Q. John Price and Tree; correct?

24 A. Correct.

25 Q. And you were not charged with that?

1 A. No, I wasn't.

2 Q. And that was not made part of any RICO;
3 correct?

4 A. Correct.

5 Q. And you were trying to kill them?

6 A. We were trying to remove them from the
7 line and make an example.

8 Q. And then you went out to Hobbs, and who
9 was there but John Price; correct?

10 A. John Price and --

11 Q. Tried to kill him again; correct?

12 A. Correct.

13 Q. And you weren't charged with that, and it
14 wasn't made part of a RICO; true?

15 A. Correct.

16 Q. Matthew Cavalier. You happened to be
17 there on a weekend at the Bernalillo County jail;
18 correct?

19 A. Correct.

20 Q. And you lured him into a false sense of
21 security; true?

22 A. True.

23 Q. And then you had Francisco Villalobo and
24 Shadow Martinez and Big Rabbit, also Samuel Silva;
25 you had them kill Mr. Cavalier, correct?

1 A. Correct.

2 Q. And there was some uncertainty whether he
3 was dead, and so you had them go in and break his
4 neck?

5 A. Correct.

6 Q. And for that, I believe the total time you
7 got was four years; is that correct?

8 A. That's correct.

9 Q. And you went back to PNM?

10 A. Correct.

11 Q. And then you also conspired to kill Kelly
12 Mercer; correct?

13 A. Correct.

14 Q. You've not been charged with that?

15 A. No, I haven't.

16 Q. And that was not made part of any RICO?

17 A. No, it wasn't.

18 Q. All the way through the time that you were
19 the leader in 2011, were there keyholders in the
20 various pods throughout the prison system?

21 A. Yes, there was.

22 Q. And Ben Clark was a keyholder?

23 A. Yes, he was.

24 Q. But you were the leader of the SNM during
25 that time?

1 A. I was one of the leaders. It was a tabla,
2 and I was part of it.

3 Q. Let me ask you about the green light on
4 Julian Romero. You had or you requested Playboy
5 Munoz to kill him; is that right?

6 A. Yes, sir.

7 Q. And Playboy Munoz shot Julian Romero;
8 correct?

9 A. Correct.

10 Q. You were not charged for that?

11 A. No, sir.

12 Q. And that was not made part of any RICO;
13 correct?

14 A. Correct.

15 Q. All right. And then Conrad Villegas beat
16 the living heck out of Julian Romero; correct?

17 A. Correct.

18 Q. Have you ever called off the green light
19 on Julian Romero?

20 A. No.

21 Q. You would like to see him killed even now?

22 A. No. It doesn't matter anymore. This was
23 gang activity. All of these incidents was gang
24 activity which was expected of me as a gang member
25 and leader. I'm no longer with the group, and I

1 could care less what happens with Julian Romero.

2 Q. All right. Baby Zack. When you shot him,
3 how much time did you get for that?

4 A. I don't recall. Maybe seven years. You
5 have the paperwork. I'm not sure.

6 Q. And as it stands now, you are almost done
7 with your time; correct?

8 A. That's correct.

9 Q. You'll be out no later than December of
10 this year; is that right?

11 A. That's correct.

12 Q. And with this change of your life and so
13 forth -- but you've still been doing drugs with the
14 rest of the cooperators, haven't you?

15 A. Yes, sir.

16 Q. All right. And who are the cooperators
17 that you're with?

18 A. At what time?

19 Q. Over the last two years.

20 A. Benjamin Clark, Jerry Montoya, Roy
21 Martinez, Robert Martinez. Mention them; I'll tell
22 you if I was there with them.

23 Q. Okay. And that was the time when you were
24 both doing drugs and playing with the tablet and
25 viewing pornography; is that correct?

1 A. Yes, sir.

2 Q. Now, let me ask you about this Darren
3 White thing. You were saying that although you did
4 not actually put a hit on him, you were happy to
5 take credit for putting a hit on him?

6 A. Yes, I was.

7 Q. Because that increased your prestige with
8 the gang; is that right?

9 A. And others, yes.

10 Q. Was that a violation of an SNM rule, that
11 you would take credit for something that you didn't
12 do?

13 A. It might be. I was the leader and taking
14 credit for something like that. I didn't take
15 credit for it. I just let people believe that it
16 was possible --

17 Q. You were happy to --

18 A. I didn't talk about it. I didn't take
19 credit for it. But I didn't mind people thinking
20 that I put a hit on Darren White.

21 Q. Let me ask you about another rule, the
22 blood in, blood out rule. There actually were
23 several gang members who were admitted without
24 spilling any blood; correct? That happened?

25 A. That happened. Eventually they're

1 expected to spill some blood.

2 Q. They were expected to do things like bring
3 in drugs or something?

4 A. Whatever is deemed necessary by the people
5 controlling the S.

6 Q. But blood in -- that was not really a rule
7 anymore; right? Because people were coming in
8 without spilling blood; right?

9 A. Yes, sir.

10 Q. All right. And then the blood out part --
11 that's not a rule, either, is it?

12 A. Not always.

13 Q. For example, yourself?

14 A. Yes.

15 Q. And it wasn't a rule with Mario Montoya,
16 was it? No blood out for Mario Montoya because he's
17 an informant.

18 A. Well, if they get their hands on you, the
19 SNM will kill you as a result of being an informant.

20 Q. Who will do that?

21 A. SNM, as a member, are expected to kill you
22 on sight.

23 Q. What is the name of the person who might
24 do that to Mario Montoya? Who?

25 A. Who?

1 Q. Yeah. Would it be Eric Duran, who is an
2 informant?

3 A. He wouldn't be participating in a murder.

4 Q. Or Thomas Clark? He's an informant.
5 Would he do that?

6 A. Would he commit the murder?

7 Q. Yeah.

8 A. I don't believe so. He's --

9 Q. How about Baby Rob Martinez, another
10 informant? Would he go try to kill Mario Montoya?

11 A. I believe he's targeted for execution
12 himself.

13 Q. Who is going to try to get Baby Rob?

14 A. Fellow active SNM Gang members, such as
15 your clients at the table.

16 Q. What are the names of those people?

17 A. Billy Garcia, Arturo Garcia.

18 Q. Billy Garcia?

19 A. Yeah.

20 Q. And would Roy Martinez go after Baby Rob
21 Martinez?

22 A. I don't believe so. They're fellow
23 cooperators.

24 Q. Yeah. Benjamin Clark, another cooperator?

25 A. Another cooperator that's no longer

1 involved.

2 Q. Ruben Hernandez, another cooperator?
3 Leonard Lujan, another cooperator? Fred Quintana,
4 Frederico Munoz?

5 MR. BECK: Objection, Your Honor. Are
6 these questions?

7 MR. BURKE: Would they be the ones? He
8 says --

9 A. These are all former SNM Gang members
10 that, since cooperating, they were no longer
11 involved in gang activity, which would exclude them
12 from having to murder SNM informants.

13 BY MR. BURKE:

14 Q. Okay. So you can't name one person that
15 would be responsible for going after one of these
16 cooperators?

17 A. Yes. I just named Billy Garcia, Arturo
18 Garcia.

19 Q. Do you have anybody else?

20 A. Anybody that's being indicted and
21 prosecuted in this RICO case can be involved in a
22 murder of a cooperator, yes.

23 Q. Okay.

24 A. Those are -- I mean, you see crime scene
25 photos of people that were strangled as a result of

1 this case.

2 Q. I'm just wondering about now, with all
3 these threats that you're talking about.

4 A. The SNM still exists.

5 Q. When you go --

6 A. They still kill people.

7 Q. When you talk to the STIU, sir, you have
8 to disclose -- when you go into the RPP Program, you
9 have to disclose everything; right? You're supposed
10 to.

11 A. Yes, sir.

12 Q. And all of these dozens of cooperators,
13 when they go talk to Mr. Acee or any of his
14 colleagues, they have to disclose all of the
15 dangerous situations that they're aware of; correct?

16 A. Yes, sir.

17 Q. So they disclose all of the names of all
18 of the dangerous people; true?

19 A. I would think so, yes, who they feared at
20 that time. I would suppose.

21 Q. And now, too; right?

22 A. I would say if they felt their life was in
23 danger, they would address that issue, yes, sir.

24 Q. And you talked about the truce that you
25 entered into. And the reason you entered into the

1 truce was, as a leader, you were seeing the SNM Gang
2 members being constricted to Level 6, for example,
3 and this was unpleasant time. You wanted them to
4 get back out into population, something a leader
5 would do; correct?

6 A. Correct.

7 Q. And that's because the New Mexico
8 Corrections Department had been successful in
9 jamming you guys all up, up at PNM; correct?

10 A. Correct.

11 Q. And they were limiting your activity and
12 they were limiting where you were out in the prison
13 population, right?

14 A. Due to our violent life, correct.

15 Q. Then this line of questioning didn't go
16 very far, but you didn't get involved in this
17 harebrained and dangerous scheme to go after
18 Marcantel, did you?

19 A. I wasn't, no. I was in Tennessee at the
20 time.

21 Q. All right. And that's sort of -- those
22 were the leaders, and they've now been sort of
23 finished off, haven't they? Like Anthony Pup Baca?
24 That was just an unfortunate harebrained dangerous
25 scheme of a desperate gang, wasn't it? True?

1 A. It was SNM activity, and --

2 Q. And then you did start to talk, after you
3 got your immunity, and the first time you spoke, you
4 did not talk about Edward Troup, did you?

5 A. I don't recall what I talked about.

6 Q. Would you like to see your first
7 debriefing, or would you take my word for it that
8 you didn't mention him?

9 A. That I didn't?

10 Q. Did not.

11 A. It could be possible, because my
12 cooperation came gradually. I've been a gang member
13 for 25 years. All I knew was not to be a rat. It
14 wasn't easy for me; snitching didn't come naturally.
15 So my cooperation came gradually. Whatever I didn't
16 come clean with during the first briefing or the
17 second, I eventually came clean with.

18 Q. It was uncomfortable for you to be a rat?

19 A. Yes, it was.

20 Q. Like these other two or three dozen people
21 that were part of gang, it's just uncomfortable for
22 you to do that, all of you guys to do that?

23 A. We are targeted to be executed and that's
24 very uncomfortable.

25 Q. By Billy Garcia?

1 A. By any active SNM.

2 Q. Who rides up to his arrest on a bicycle?

3 A. It doesn't matter who he is. When I went
4 to Tennessee, I was riding a bike for the first
5 year. He's a influential active SNM Gang member.

6 Q. And while you were in Tennessee, you
7 stayed in touch with Big Jake; is that correct?

8 A. I did.

9 Q. And with others, such as Vincent Garduno;
10 is that correct?

11 A. I did.

12 Q. You still commanded respect while you were
13 down there; is that correct?

14 A. I did.

15 Q. And all of the time that you were still
16 here and in prison, did Brian Rascon come up and
17 talk to you about what happened with Freddie
18 Sanchez?

19 A. No, he didn't.

20 Q. And what about his brother? Did his
21 brother come up and talk to you?

22 A. No, he didn't.

23 Q. What about Jesse Trujillo? Did Jesse
24 Trujillo come up and talk to you?

25 A. I do not recall.

1 Q. Did Michael Jaramillo ever come up to you
2 and acknowledge that he had killed Frank Castillo?
3 Did that conversation take place?

4 A. I do not recall.

5 Q. Okay. But a conversation with Edward
6 Troup took place, and of course, it took place at
7 Jurassic Park.

8 A. Yes, sir.

9 Q. Right? And there's no photographs of you
10 meeting?

11 A. No.

12 Q. You've not seen that? And there is no
13 record of you meeting with Edward Troup?

14 A. No, sir.

15 Q. But you're happy to talk about that,
16 because you'll be out of prison in a few months;
17 right?

18 A. They just wanted me to tell the truth as
19 to the life I've lived with the SNM for the past 25
20 years, who I lived it with, and the activities I
21 took part in. Yes.

22 MR. BURKE: That's all.

23 THE COURT: Thank you, Mr. Burke.

24 Mr. Shattuck. Do you have
25 cross-examination of Mr. Archuleta.

1 MR. SHATTUCK: Yes, sir. Very briefly, if
2 I may.

3 THE COURT: Mr. Shattuck.

4 CROSS-EXAMINATION

5 BY MR. SHATTUCK:

6 Q. Good morning.

7 A. Good morning.

8 Q. You don't know Allen Patterson, do you?

9 A. I don't believe I do. I don't know the
10 name Allen Patterson.

11 Q. As a matter of fact, do you remember when
12 you went into the prison wearing a wire and you were
13 talking to Carlos Lazy Herrera, do you remember that
14 incident back in 2017?

15 A. I remember when I did that.

16 Q. And you guys were going through the
17 indictment, like, reading the names of everybody?

18 A. Yes.

19 Q. Recognizing who they were?

20 A. Yes, sir.

21 Q. And when you came to Allen Patterson, you
22 both said, "Who the fuck is Allen Patterson?" didn't
23 you?

24 A. That's correct.

25 MR. SHATTUCK: No further questions.

1 THE COURT: Thank you, Mr. Shattuck.

2 Mr. Blackburn, do you have
3 cross-examination of Mr. Archuleta?

4 MR. BLACKBURN: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. BLACKBURN:

7 Q. Mr. Archuleta, you have a pretty extensive
8 criminal background, do you not?

9 A. As an active member of the SNM, yes, I do.

10 Q. Well, when did you first become a member
11 of SNM?

12 A. '89, '90.

13 Q. Well you had an extensive criminal
14 background before you came to -- before you became a
15 member, did you not?

16 A. Yes, I did.

17 Q. And after you got to -- in the system as
18 you reviewed with Mr. Burke just now, you had a
19 number of other assaults and murders that you
20 yourself participated in; isn't that true?

21 A. I did.

22 Q. Can you count them? Do you even remember
23 how many there are?

24 A. Before being a gang member?

25 Q. Before being a gang member. Start there.

1 A. Yeah.

2 MR. BECK: Objection, Your Honor, under
3 609.

4 MR. BLACKBURN: I'm sorry.

5 BY MR. BLACKBURN:

6 Q. After you became a gang member, after you
7 got to PNM and you became a gang member, you also
8 participated in a number of assaults and murders,
9 did you not.

10 A. Yes, I did.

11 Q. And participating, I'm also meaning, one,
12 where you actually did something; and, two, where
13 you ordered it. Can you sit here today and tell us
14 every time that you participated in an assault or a
15 murder or that you ordered an assault or a murder?

16 A. I believe I can. Or if I don't recall, if
17 you mention it, I can tell you if I was involved in
18 it or not.

19 Q. Would it be in excess of 30?

20 A. That's a high number. Maybe not.

21 Q. In excess of 25?

22 A. Violent activity that was involved as an
23 SNM Gang member?

24 Q. Sure.

25 A. Yeah, I would say so.

1 Q. All right. And out of those ones that you
2 are -- out of those at least 25 and maybe more that
3 you participated in or ordered, you only got
4 prosecuted for very few; isn't that correct?

5 A. That's correct.

6 Q. And as a result of all of that, you
7 eventually got paroled, what did you say, in 2012,
8 2013? When did you get paroled?

9 A. 2011.

10 Q. Is that when you moved to Tennessee?

11 A. Yes, sir.

12 Q. And even though you moved to Tennessee, it
13 wasn't like, as you discussed with Mr. Burke, that
14 you gave up your role in SNM as far as it was
15 receiving drugs and communications with other SNM
16 members like Vincent Garduno; right?

17 A. I continued conversation with Vincent.

18 Q. You still at that point in time had bad
19 feelings for Julian Romero because you knew that
20 there was going to be a hit on him; right?

21 A. I had bad feelings against Julian Romero,
22 but I wasn't aware of that particular hit going
23 down.

24 Q. So are you telling us that all these years
25 you have had this completely -- complete anger for

1 what Julian Romero did, because you feel that what
2 he did was just beyond reproach; right?

3 A. Yes.

4 Q. He was a member of SNM; he was a friend of
5 yours. You sent him to give a message to your wife
6 who would relate to the hit on Kelly Mercer; right?

7 A. I sent my wife to leave a message to
8 Julian Romero.

9 Q. Right. Your wife came to visit you when
10 you were in custody, and you wanted Kelly Mercer to
11 be hit; right?

12 A. Yes.

13 Q. So you told her to go talk to Julian
14 Romero and pass that on, because you knew, as a
15 member of SNM, he would do that; right?

16 A. It would be expected of him, yes.

17 Q. It would be expected of him, and if he
18 didn't do it, then he would be in trouble with SNM;
19 correct?

20 A. Not necessarily. I mean, he didn't --
21 what I mean by that is, he didn't have to do it
22 himself. Just either do it or get it done.

23 Q. Take care of it. He didn't do anything
24 like that. He didn't take care of Kelly Mercer.
25 The only thing he did was take care of your wife;

1 right?

2 A. That's correct.

3 Q. And you were still married to her?

4 A. That's correct.

5 (Mr. Sindel entered the courtroom.)

6 Q. That's got to hurt pretty bad when
7 somebody that you trust and is a member of an
8 organization that believes in the things that you do
9 and knew that that was probably one of the biggest
10 things that he could do to get hit, and he goes out
11 and does that to not just another SNM member, but to
12 someone like you, who is a leader of SNM. That's
13 got to hurt pretty bad; right?

14 A. It was a violation of SNM conduct, and at
15 the same time it was personal, yes.

16 Q. It was personal to you; right? I mean,
17 you could sit here all day and talk about SNM. But
18 at the same time, it was personal to you; correct?

19 A. I would say it was personal and at the
20 same time it was a violation of SNM conduct, a major
21 violation.

22 Q. And despite all of those years -- when did
23 that happen?

24 A. Early 2000, '99. When I was in jail with
25 the Cavalier murder.

1 Q. So from 1999 you got out of custody
2 several times afterwards, did you not? I mean, you
3 would be out on the streets; right?

4 A. Yes, I did.

5 Q. Because there was a situation -- where the
6 situation at the methadone clinic. I mean, you
7 actually tried to have Julian killed. You sent out
8 Playboy to do that, did you not?

9 A. That methadone clinic incident is a
10 different incident.

11 Q. All right. I'm sorry. You tasked Playboy
12 to go out and do the hit on him; right?

13 A. On Julian Romero, yes.

14 Q. And did you tell him to also kill your
15 wife at the same time?

16 A. No, I didn't.

17 Q. She would just be collateral damage in the
18 event that that happened; right?

19 A. No.

20 Q. That would be up to him, if he wanted to
21 do that; right?

22 A. The hit was on Julian. The hit wasn't on
23 my wife.

24 Q. And you know he shot at her.

25 A. I know that she was there when the

1 shooting occurred.

2 Q. All right. So eventually, after that
3 attempt fails, at some point in time you get out of
4 custody, do you not?

5 A. I do.

6 Q. And then you get back into custody; right?

7 A. Yes, sir.

8 Q. And then you're back at the prison,
9 running SNM again, because once you come back in, as
10 a leader, once a leader, sort of always a leader,
11 unless you're taken out; right?

12 A. Yes, sir.

13 Q. And you've never been taken out, so
14 anytime you go back to the institution, you will
15 continue to be the leader unless there is somebody
16 above you; right?

17 A. Yes, sir.

18 Q. And the only person that was above you was
19 who at the time?

20 A. Billy Garcia, Anthony Ray Baca, Marty
21 Barros, Phillip Cordova. It was a circle of people
22 that go before me.

23 Q. So would you go in and you would go out,
24 and go in and go out. You were out for a few years,
25 and you came back in in 2010; right?

1 A. I believe so; around there.

2 Q. And you came back in 2010, you eventually
3 get out in 2012, that you just discussed a while ago
4 when you moved to Tennessee; correct?

5 A. 2011.

6 Q. So from 1999 until 2011, you still being a
7 gang member, you have this anger in your heart and
8 the desire to continue to make sure that Julian
9 Romero was hit; right?

10 A. Yes, that's correct.

11 Q. And then all of a sudden, when you get
12 arrested in Tennessee and come back, now it's no big
13 deal; you don't care what happens to him. So all
14 this time, you can't sit here and tell us,
15 Mr. Archuleta, that you still do not have anger in
16 your heart for what Julian Romero did, can you?

17 A. Probably not.

18 Q. I mean, you sit here and you tell Mr.
19 Burke, "No, I don't care what happens to him."
20 That's not true. You do care, because you
21 would just as soon see him dead as anybody else;
22 right?

23 A. I do not care. It wouldn't bother me to
24 see him dead, but as an active SNM Gang member that
25 no longer exists, what I mean is: I wouldn't

1 participate. I no longer participated in having him
2 hit through SNM means. I no longer care. I wasn't
3 part of SNM, is what I meant.

4 Q. You're not part of the --

5 A. As far as making decisions.

6 Q. But you have never called off that hit to
7 this day.

8 A. Right.

9 Q. Hold on. Let me ask a question. You've
10 not called off that hit to this day, so you know
11 that as long as that hit stays on, it doesn't have
12 to be you, but it can be anybody else out there in
13 SNM that's still a member, because they know what
14 happened, and they're entitled to have to take him
15 out. Isn't that true?

16 A. That's true.

17 Q. And if you really, really wanted to get
18 out of SNM, if you really wanted to change and do
19 the right thing, wouldn't you take the hit off
20 Julian Romero after all of these years?

21 A. Well, I had to start somewhere, and taking
22 the hit off wasn't where I started. I started by
23 getting as far away from the gang --

24 Q. Started by getting all the way -- what you
25 said, to get all the way to Tennessee; but you're

1 still involved in gang activity while you're there.

2 A. As a result of my addiction.

3 Q. Right.

4 A. But I was no longer taking part in
5 activities such as the hit on Marcantel and all the
6 other things that were going on.

7 Q. Yeah, well, that had nothing to do with
8 you. So now doing the right thing is to cooperate;
9 right? You're washing your hands of all those years
10 by deciding to cooperate, even though you still have
11 the anger in your heart and you still have not
12 called off the hit on Julian Romero; isn't that
13 true?

14 A. I believe it's in my best interests, yes.

15 Q. Well, you said something that was pretty
16 interesting a while ago. You said that your
17 cooperation came -- didn't come right away; right?
18 Even though you may have thought when you got
19 arrested in Tennessee that you were going to
20 cooperate, is there --

21 A. It took me a month or so to get to New
22 Mexico. So my cooperation didn't come right away.
23 But my first court appearance, I began to cooperate,
24 which was at least a month prior to my arrest in
25 Tennessee.

1 Q. Let me stop you there. You seem to be
2 having troubles. Are you -- I mean, I see you
3 move -- I'm just wondering if you're having some
4 issue, some physical issue, because you keep coming
5 back and forth.

6 A. I'm nervous.

7 Q. Okay.

8 A. Yes, I'm very nervous. Snitching, taking
9 the stand, is new to me. It's something that goes
10 against everything I knew. I'm nervous.

11 Q. I thought maybe there was something
12 physically going on.

13 A. No. I'm nervous. All right?

14 Q. All right. So while -- you were still
15 getting drugs from everybody when you were on
16 parole, were you not?

17 A. Excuse me? Repeat.

18 Q. You were still getting drugs from SNM
19 members when you were in Tennessee, were you not?

20 A. Correct.

21 Q. We talked about that you were getting
22 Suboxone; correct?

23 A. Correct.

24 Q. Were you getting other drugs besides that?
25 Weren't you getting marijuana and issues like that

1 coming through the mail?

2 A. I was getting Suboxone.

3 Q. Just Suboxone? All right. We talked
4 about the Vincent Garduno issue; right? You were
5 talking to him over the phone, Vincent Garduno, as
6 it relates again to the Julian Romero issue; is that
7 correct?

8 A. No, to the Suboxone issue.

9 Q. To the Suboxone issue. All right. Chris
10 Garcia. You were talking to him about drug issues;
11 right?

12 A. Correct.

13 Q. And so eventually at the time -- you knew
14 at that time also when you were out on the streets
15 that also Arturo Garcia was out on the streets. You
16 knew that he had been released from the institution,
17 too, did you not?

18 A. I'm not sure if I was aware that he had
19 actually got out. I was not in contact with Arturo
20 Garcia.

21 Q. Once you left?

22 A. Yes, sir.

23 Q. So you get arrested in Tennessee, and you
24 recall, do you not, that the officer who -- that
25 when you got arrested, there was also -- even though

1 you did not know the individual that was there in
2 Tennessee who arrested you in Chattanooga, but there
3 was somebody there from the STIU to greet you when
4 they arrested you; right?

5 A. Yes.

6 Q. Do you know who that was?

7 A. Martin.

8 Q. You knew him in STIU, did you not?

9 A. Yes, I did.

10 Q. And those guys had been there --

11 THE COURT: Mr. Blackburn, let me talk to
12 the jury a little bit.

13 We're kind of at a normal lunch break. Do
14 you want to do a normal lunch break, or do you want
15 to take a 15-minute break and work through the rest
16 of the lunch hour and take a late lunch? What would
17 be your preference? How many of you want to take a
18 15-minute break? Okay. That's everybody. So why
19 don't we take a 15-minute break. It will make for a
20 shorter afternoon.

21 All right. We'll be in recess for 15
22 minutes.

23 (The jury left the courtroom.)

24 THE COURT: All right. A couple of things
25 before we take our break. This morning Cupit gets

1 longer in the corrected version. That doesn't seem
2 right to me. I'm going to think about this,
3 Mr. Solis. I'll not hear from you now. Just listen
4 to me. If you're willing to come up to this podium
5 when Mr. Cupit takes the stand and say, "Look, you
6 know, we're not going to contest that the SNM was an
7 enterprise engaged in racketeering activity around
8 2007."

9 MR. SOLIS: For us it's 2001, Your Honor.

10 THE COURT: Well, I know. But the point
11 is that they could use your evidence for
12 racketeering activity of 2007. So I've got to have
13 a little more. And Mr. Chavez was a member at that
14 time, and that you know, you're not going to contest
15 that Mr. Chavez engaged in drug buying and selling.
16 If you'll say that, I'll say, "Well, I think Cupit
17 is unnecessary," and then I'll allow him to testify.

18 MR. SOLIS: Mr. Griego testified yesterday
19 on direct examination --

20 THE COURT: Let me move to a different
21 topic, and you think about that.

22 As far as this corrective instruction, Mr.
23 Castle, on yours, take a look at -- it's called
24 United States v. Munyenyezi, I think is the way it's
25 said. 781 F.3d 532 2015. If you will write out a

1 one-sentence explanation as to what went wrong with
2 the medical records for Munoz, I'll let you read
3 that one-sentence explanation, run it past
4 Ms. Armijo, and then I am inclined to give the
5 instruction that the judge gave there.

6 MR. CASTLE: 781 F.3d, what was it?

7 THE COURT: 532. So you write out a
8 one-sentence explanation, I'll let you give it.
9 Explain it, and you run it past Ms. Armijo, and then
10 I'll give the instruction the judge did. That's
11 what I'd be inclined to do.

12 Let's take our break. I'll hear from you.
13 Fifteen minutes.

14 (The Court stood in recess.)

15 THE COURT: All rise.

16 (The jury entered the courtroom.)

17 THE COURT: All right. Ms. Bevel said you
18 wanted to know when I wanted to take lunch. I'm the
19 least important here. We serve you -- or I serve
20 you. So I'm more concerned about you and the
21 attorneys and the parties. If y'all are happy, I'm
22 a very happy camper.

23 Mr. Blackburn, if you wish to continue
24 your cross-examination.

25 And Mr. Archuleta, I'll remind you that

1 you're still under oath.

2 THE WITNESS: Yes, sir.

3 MR. BLACKBURN: Thank you, Your Honor.

4 May it please the Court?

5 THE COURT: Mr. Blackburn.

6 BY MR. BLACKBURN:

7 Q. When we left off, I was talking to you
8 about when you were initially arrested in
9 Chattanooga, Tennessee, and they took you down to
10 the police station and they informed you, did they
11 not, that you had been indicted in New Mexico for a
12 racketeering charge and for the issues that related
13 to an assault on Julian Romero. Did they not tell
14 you that?

15 A. Yes, sir.

16 Q. All right. And that came from Mr. Martin;
17 right?

18 A. Yes, sir.

19 Q. Because as I was discussing with you a
20 while ago, isn't it true that you had known him
21 throughout the years as an individual who was
22 associated with the STIU at the penitentiary; is
23 that correct?

24 A. That's correct.

25 Q. All right. And we've heard a lot about

1 the STIU, but there is a difference between the
2 STIU, who are sort of like the gang cops at the
3 prison, versus the correctional officers who are the
4 ones who tell you where to go and what to do; right?

5 A. Yes.

6 Q. So when you were talking to him, isn't it
7 true that you pretty much downplayed everything
8 initially that you had to do with SNM in New Mexico,
9 correct, whenever you were talking to them in
10 Tennessee? I mean, you indicated that, for one,
11 that you had really nothing do with the SNM in New
12 Mexico; isn't that true?

13 A. I distanced myself.

14 Q. You distanced yourself. You distanced
15 yourself to the extent that you denied even being a
16 member -- that you denied being a member of the
17 group, but number 1, you denied being a leader of
18 the group; right?

19 A. Correct.

20 Q. Number 2, you denied being a member of the
21 group and you said that the only thing that you knew
22 was that you associated -- or you knew some of these
23 individuals that were in the SNM and you talked to
24 them sometimes on the phone; isn't that correct?

25 A. Correct.

1 Q. You denied any involvement in any hits or
2 any murders; is that right?

3 A. That's correct.

4 Q. You said that you had talked to Anthony
5 Ray, Pup, on occasions, but the last time that you
6 had talked with him on a conversation that they told
7 you was recorded, you told him that you did not know
8 what he was talking because, as you said before, you
9 don't speak Spanish; right?

10 A. The person spoke Spanish I did not
11 understand.

12 Q. You were asked about the fact that someone
13 did call you and admit to you over the telephone
14 that Julian Romero had been assaulted on July 14,
15 2015, for what you eventually pled guilty to at
16 Southern New Mexico and what you thought about it,
17 to which you said, "I thought that was funny"?

18 A. Yes, sir.

19 Q. During the interview that you had with
20 them, you stated that some members of the SNM were
21 trying to set you up, but you denied any knowledge
22 that you made any statements regarding the murder of
23 Matthew Cavalier to any law enforcement people;
24 right?

25 A. I think I said that, yes.

1 Q. And also at the same time you denied any
2 knowledge of the shooting or even under the
3 circumstances you had no clue who would have been
4 the individual who would have shot at Julian Romero;
5 right?

6 A. I denied everything.

7 Q. You denied everything.

8 A. Yes.

9 Q. Now, at some point in time, did you come
10 to learn that a person that you were talking to on
11 the telephone, Sammy Griego, was recording you when
12 he was talking to you? Did you know that?

13 A. I wasn't aware of it at the time of the
14 conversation. I eventually became aware that he was
15 working for the FBI and recording our conversation.

16 Q. So -- and at the time that you were in
17 Chattanooga, Tennessee, Sammy, a/k/a Cheesy Sleazy,
18 was calling you on the telephone and you were trying
19 to get drugs from him; isn't that true?

20 A. Cheesy Sleazy?

21 Q. Well, that's a joke. I just sort of made
22 that up on the spot. His name is Sleazy; right?

23 A. I don't know that person.

24 Q. Sammy Griego?

25 A. I know Sammy.

1 Q. All right. Did you know -- he was calling
2 you, talking to you about drugs; right?

3 A. Yes, sir.

4 Q. And at the same time he was trying to get
5 you to purchase drugs from him; right?

6 A. No, sir.

7 Q. You were trying to get him to send you
8 drugs; right?

9 A. Trying to get him to give me drugs, yes.

10 Q. To give you drugs. But as you said, now
11 you know that he was working for the FBI and trying
12 to set you up; right?

13 A. I found that out later, yes.

14 Q. Now, you knew him because during the
15 events that happened as it relates to Julian Romero,
16 he tended to be somebody who took your side; isn't
17 that true?

18 A. He respected my authority, yes.

19 Q. He respected your authority. So let me go
20 back now, while I'm thinking about it. You
21 indicated -- you told us just before the break that
22 there had been a number of occasions when you
23 personally were out on the streets after this --
24 after Julian Romero had this affair with your wife;
25 is that correct?

1 A. That's correct.

2 Q. Now, were you in and out, like, three or
3 four times before you left to go to Tennessee?

4 A. That's correct.

5 Q. So all of those times that you were out on
6 the streets, you personally had the opportunity to
7 take care of this hit yourself, but you didn't do
8 that, did you?

9 A. I didn't have the opportunity. Every time
10 I was released, Julian was in corrections so I did
11 not have the opportunity to take care of it myself.

12 Q. So you continued to always have somebody
13 else try and do that hit for you; is that correct?

14 A. Yes, sir.

15 Q. You yourself never tried to put yourself
16 in a position that you could be transferred to a
17 facility, do anything you could to get to a facility
18 where Julian Romero would be at, did you?

19 A. I didn't control my movements. I didn't
20 have no way of doing something like that. But if
21 there was a way I could have done it, I would have
22 worked on it.

23 Q. And you assigned other people to do those
24 tasks; right?

25 A. Yes, sir.

1 Q. You made it very well known that those
2 people who were going to follow you, that Julian
3 Romero had this green light on him; correct?

4 A. I made sure they understood that green
5 light, yes.

6 Q. And you -- this issue, whether it was
7 personal or SNM related, caused major disruption in
8 the SNM, did it not?

9 A. I believe it did, yes.

10 Q. So people took your side or they took
11 Julian Romero's side, and that affected lots of
12 people in your organization, did it not?

13 A. It made a lot of people paranoid.

14 Q. Well, you took a faction with you, a group
15 of people, and you assigned -- by putting this --
16 making it known that there was a green light that
17 was out there on him, you put those people who were
18 respectful of you in a position to hit him, did you
19 not?

20 A. Yes, they were to recognize the green
21 light. Every SNM Gang member was to recognize the
22 green light as it was approved by Angel Munoz.

23 Q. For you, at your request.

24 A. For me and for the S, as I saw it. He
25 violated an SNM bylaw. It was out in the open,

1 obvious as heck, and like I told you, it was -- his
2 green light was as a result of that violation, which
3 was a big violation.

4 Q. Sure.

5 A. You see violations like that could cause
6 division, and at the same time, me and my wife, it
7 was personal, yes.

8 Q. Sure. But at the same time, you then
9 affected several people by specifically putting hits
10 on him. For instance, you tasked people like
11 Playboy and other people that you sent out to do
12 that for you, specifically; not that you just put it
13 out there on the SNM dot com or on the SNM rumor
14 mill; you specifically chose people to go do that;
15 right?

16 A. Yes.

17 Q. And then for those people that were
18 totally against you, who took the other side, who
19 did not follow you or did not respect you, you put
20 those people in positions to be hit because they
21 weren't on your side; right?

22 A. Because they didn't respect the leadership
23 of the S at that time, which I was a part of;
24 correct.

25 Q. And those included the Rascons; right?

1 A. That's correct.

2 Q. You had just as much anger for those
3 people who didn't do that as you had for Julian
4 Romero who did do this to you; right?

5 A. Correct.

6 Q. And so you put hits on all of those
7 people, too; right?

8 A. That's correct.

9 Q. And your actions caused total disruption.

10 A. It caused disruption and paranoia, yes.

11 Q. So when you say that you wanted to
12 cooperate when the police officers arrested you in
13 Chattanooga, Tennessee, that really wasn't true, was
14 it? Because you didn't give them any indication at
15 the time that you were willing to help out; right?

16 A. When I got arrested in Tennessee, I was
17 willing to cooperate, which is why I denied
18 everything. Once I got to New Mexico and talked to
19 my lawyer, I decided that the best thing for me to
20 do is to cooperate, since they just basically wanted
21 the truth about the life I've lived for 25 years,
22 which was the easiest thing I've ever done, just to
23 tell the truth. For years I denied it.

24 Q. Hold on. Let me ask the questions. Yeah,
25 you denied it, and you're still denying it, because

1 you still have the hit out on Julian Romero?

2 A. There is a hit on me and Julian. It
3 doesn't even matter about him having an affair with
4 my wife. We are both informers, and if the SNM is
5 good at one thing, it's killing SNM informers. That
6 will be obvious in this trial, what happens to SNM
7 informers. So it's no longer about me.

8 Q. Excuse me. Let me ask a question, if you
9 don't mind?

10 A. Yes. Okay. I'm sorry. Excuse me.

11 Q. That's okay. I think you said it took
12 almost a month for you to get back to New Mexico; is
13 that right?

14 A. Yes.

15 Q. And at the time, prior to the time, you
16 knew about the indictment, you knew what you were
17 charged with in the indictment, did you not?

18 A. Yes, sir.

19 Q. And you knew that despite the fact that
20 all these people over here were charged in Count 1,
21 Count 2, Count 4, Count 3, Count 4, Count 13, Count
22 14 concerning murders, that you were charged in one
23 simple count with an assault on Julian Romero;
24 right?

25 A. I knew my charges; right.

1 Q. You knew your charges. And you knew that
2 all those other people, a lot of them still sitting
3 in this room today, were charged with the death
4 penalty; right?

5 A. I didn't know the particulars. All this
6 was new to me. It was a RICO case, and I've never
7 been federally charged with anything.

8 Q. You went to a couple of hearings we had
9 with this judge and you sat there and you heard the
10 arguments about those individuals who were facing
11 the death penalty, did you not?

12 A. I don't recall. I understand that that
13 may be a penalty of murder, the death penalty.

14 Q. Did you not attend a couple of hearings
15 with this judge in Albuquerque?

16 A. I don't recall. I've attended meetings,
17 but what are you asking me again?

18 Q. What I'm asking you is: You knew that you
19 only had one charge in this indictment; right?

20 A. Yes, I knew my charge, yes.

21 Q. And you knew that that charge only carried
22 a maximum term of three years of imprisonment;
23 right?

24 A. No, I did not.

25 Q. Well, you knew it when you signed the plea

1 agreement, did you not?

2 A. When I signed the plea agreement, yes, but
3 at the time I was charged and handed the indictment,
4 I wasn't aware of what I was facing exactly.

5 Q. I'm assuming you knew what you were
6 looking at when you talked to your lawyer on the
7 first occasion and before you decided to cooperate
8 with the Government, did you not? Didn't your
9 lawyer explain to you, "Oh, Mr. Archuleta, this
10 crime that they are charging you with in this
11 19-count indictment or 12-count indictment, however
12 many counts it is, you're charged in one count and
13 the maximum term is three years, compared to all
14 these other people who at the time were charged with
15 the death penalty"; right? You knew that. He told
16 you that. He's a good lawyer. He told you that;
17 right?

18 A. I wasn't aware of that until we signed the
19 plea.

20 Q. Until you signed the plea?

21 A. Yeah.

22 Q. Well, you also knew that there was -- you
23 knew before you signed the plea that other people
24 had -- that the Government was out arresting other
25 people and charging them with more crimes. You knew

1 that also, did you not?

2 A. Yes, I knew it was a RICO roundup.

3 Q. You knew that there was a RICO coming down
4 the road, and that happened; right?

5 A. Yes, sir.

6 Q. So it's best for you to get signed up
7 before that RICO comes down the road because -- how
8 old are you?

9 A. I am 52.

10 Q. So eventually you did sign the plea;
11 right?

12 A. Yes, sir.

13 Q. But I'm assuming that that just didn't
14 happen overnight, on June 16, did it? There was
15 some back-and-forth negotiations. You knew -- you
16 had told your attorney to go get you a plea early
17 on, did you not?

18 MR. HARRIS: Your Honor, may we approach?

19 THE COURT: Well, if you want to instruct
20 him -- you may approach, but if you want to instruct
21 him not to answer that, you can do that.

22 MR. HARRIS: I consider that to be
23 attorney-client privilege.

24 THE COURT: Are you going to follow your
25 counsel's advice?

1 THE WITNESS: I suppose if that's what he
2 wants me to do.

3 THE COURT: All right. So I'll sustain
4 the objection.

5 BY MR. BLACKBURN:

6 Q. Well, before you signed your plea, you had
7 a few meetings with the Government, did you not?

8 A. Yes, yes.

9 Q. You had a meeting with the Government on
10 January 21 of 2016; isn't that right?

11 A. That's correct.

12 Q. And in that first interview your attorney
13 was there, was he not?

14 A. I believe so, yes.

15 Q. And this happened at the United States
16 District Courthouse in Las Cruces, New Mexico. You
17 remember that one, do you not?

18 A. Yes, I do.

19 Q. And present was your attorney and also
20 present was members of the prosecution team,
21 Ms. Armijo and Mr. Castellano; is that correct?

22 A. That's correct.

23 Q. And members of the FBI, which was Mr.
24 Acee, Mr. Neale, Mr. Sainato, and then also task
25 force members Anthony Medrano; right?

1 A. That's right.

2 Q. You had a big old conference room; right?

3 A. That's correct.

4 Q. And again, in January of 2016 you claimed
5 that you were never a formal leader of SNM, but only
6 that you were a respected person. So you were just
7 giving them a line of BS at the same time, were you
8 not?

9 A. That's correct. My cooperation came
10 gradually. Yes, that's correct.

11 Q. And when you first joined the SNM, that a
12 group of younger gang members rallied around you,
13 and you may be an informal leader, right, as opposed
14 to a formal leader; right?

15 A. That's correct.

16 Q. Is that what you told them?

17 A. That's what I told them.

18 Q. And the one thing that you did say, you
19 did say that in 2003 that Frederico Munoz and Shamon
20 Pacheco, acting on a green light order, shot Romero,
21 but that he survived; right? Do you remember
22 telling them that?

23 A. I did.

24 Q. And you told them that you had -- that you
25 were upset with several members of the SNM because

1 their actions sometimes led to people renouncing
2 because of the hits that had been put on Julian
3 Romero, although you didn't acknowledge to them, did
4 you, that you were the one that put the initial hit
5 on Julian Romero, did you?

6 A. I don't understand the question.

7 Q. That was pretty compound. Did you tell
8 them during that first interview that you had with
9 all of them that you were the one that had put the
10 hit on Julian Romero?

11 A. I'm not sure, but it's documented.

12 Q. Well, you did tell them about those items
13 that you couldn't deny, like items like murdering
14 Matthew Cavalier, because you had pled guilty to
15 that charge and you had been convicted of it; right?

16 A. Right.

17 Q. That was something that you couldn't deny;
18 right?

19 A. Correct.

20 Q. So for those factual issues that they
21 could go look at documentation on, it was easy for
22 them -- it was easy for you to be able to tell them
23 the truth about that, because there's public records
24 on that; right?

25 A. Correct.

1 Q. But eventually, you were able to convince
2 them that you wanted to work for them, and you
3 agreed to wear a wire; right?

4 A. Yes, sir.

5 Q. And they gave you this, and this was
6 probably in -- I believe it was April of 2016?

7 A. That's correct.

8 Q. And you -- how long did you have this
9 little recording device? For a couple of months?

10 A. A week.

11 Q. A week? All right. So they gave you a
12 little recording device so that you were with a
13 bunch of people up in Santa Fe, in PNM North; right?

14 A. Yes, sir.

15 Q. When you were recording individuals;
16 right?

17 A. I was recording one individual, who was
18 Lazy, Carlos Herrera.

19 Q. Carlos Herrera; right? So was that your
20 task? Were you told to just go, to get information
21 from him, or was it everybody in general?

22 A. It was from Carlos Herrera.

23 Q. And was that because you were located next
24 to him up in North?

25 A. Yes, sir.

1 Q. So at the time that you were given that
2 device, was Mr. Herrera in the cell already next to
3 you?

4 A. No, sir.

5 Q. Oh, okay. So at the time that you were
6 having this cooperation with the Government and
7 telling them that you were willing to take this
8 recording device, who was in the cell next to you?

9 A. I don't know his name.

10 Q. All right. But eventually he gets -- he
11 goes; right? He leaves; right? He had nothing to
12 do with any of the murders, did he?

13 A. No, sir.

14 Q. But then, all of a sudden, Carlos Herrera
15 shows up after they give you the device; right?

16 A. Yes, sir.

17 Q. Well, I thought you just said a while ago
18 that there is no way that inmates or anybody could
19 control the movement in the prison. Is that what
20 you said?

21 A. That's correct.

22 Q. Not -- you can't; right?

23 A. I can't.

24 Q. But --

25 A. But the FBI can.

1 Q. But the FBI can.

2 A. Yes, sir.

3 Q. So they move in next to you Carlos Herrera
4 for the purpose of you being able to specifically
5 record him; right?

6 A. Yes, sir.

7 Q. And you did?

8 A. I did.

9 Q. And he was an SNM member?

10 A. He was.

11 Q. And you had renounced?

12 A. Excuse me?

13 Q. You had not renounced being an SNM member
14 at that time?

15 A. I had not renounced.

16 Q. And everybody that was out there floating
17 around and all these people that were going to court
18 all the time still thought that you were in that
19 case and going to trial with them, did they not?

20 A. I'm not sure exactly. When I signed my
21 plea, they were aware that I was cooperating.

22 Q. Well, you didn't sign that until June.
23 This is April of 2016.

24 A. They were not aware that I was
25 cooperating.

1 Q. Because you didn't tell anybody; right?

2 A. Of course not.

3 Q. Okay. And the first time anybody knew
4 about -- well, they were still looking up to you as
5 a leader, were they not? Even though you told the
6 law enforcement that you were not a leader, those
7 individuals that were at the penitentiary knew you
8 as a former leader, and they were still looking up
9 to you, weren't they?

10 A. Some of them, yes.

11 Q. Well, you didn't go tell these guys that,
12 oh, Time out, Green Bay, I want you guys to know
13 that "I've been spending a lot of time talking to
14 the FBI and I'm going to cooperate, and in fact, I'm
15 even recording Lazy." You didn't tell them that;
16 right?

17 A. No, sir.

18 Q. And eventually -- well, eventually, in
19 June of 2016, you entered into your plea agreement;
20 is that correct?

21 A. That's correct.

22 Q. While she's getting that ready, isn't it
23 true, Mr. Archuleta that you knew that in April or
24 at the same time -- well, you knew prior to the time
25 that you signed this plea agreement that there had

1 already been a second indictment; isn't that
2 correct?

3 A. I knew that one was coming, yes.

4 Q. Well, the RICO happened, I believe, in
5 April of that year or sometime around there. But
6 the RICO indictment charging several other people
7 had already occurred prior to the time you took this
8 plea; right?

9 A. I took the plea after that. I'm sure of
10 it. I'm not sure of the dates, but --

11 Q. We'll get that in the record.

12 A. It may or may not.

13 Q. So June 16 of 2016; right?

14 A. Yes.

15 Q. Let's go the second page, if you don't
16 mind, the next page. So it says here in paragraph 3
17 that you agreed to waive your right to plead not
18 guilty and to plead guilty to count 8 of the
19 superseding indictment. That means that -- you know
20 what a superseding indictment is? That means
21 where --

22 A. Where they charge --

23 Q. If that means where they add new charges
24 or they add new defendants. So you're pleading to a
25 superseding indictment to count 8; right?

1 A. Yes, sir.

2 Q. And you understand that the maximum
3 penalty you can get, the maximum you can get is
4 three years; right?

5 A. Yes, sir.

6 Q. And a fine not to exceed \$250,000?

7 A. Yes, sir.

8 Q. I would say you got the sweetheart deal of
9 the century, wouldn't you?

10 A. I did. Of course, it came with a death
11 sentence, so if I'm dead and strangled like Pancho
12 Castillo or any of these other individuals that were
13 strangled, it wouldn't be much of a benefit.

14 Q. But you made that decision.

15 A. Yeah, you're right, and it's constant.

16 Q. So you knew when you walked in there that
17 day that despite the fact that you had been involved
18 in over 25, maybe more, assaults, murders, hits on
19 SNM members, that you were walking out with at the
20 most three years; right?

21 A. Yes, sir.

22 Q. And in fact, during the plea colloquy with
23 the judge that took your plea -- not this judge, but
24 Judge Wormuth -- he talked with you about sentencing
25 guidelines, did he not?

1 A. I believe so.

2 Q. And he basically came to the conclusion
3 that, well, based upon your criminal history, we
4 don't even need to talk about sentencing guidelines
5 because your sentencing guideline are off the
6 charts; right?

7 A. I believe he may have. If that's what it
8 says on the transcript.

9 Q. Well, you're a career offender. Did they
10 not talk to you about being a career criminal
11 offender?

12 A. Yes, sir.

13 Q. You know that carries a life sentence, do
14 you not?

15 A. A lot of time, yes.

16 Q. And so you go from a possible RICO
17 indictment life sentence down to three years; right?

18 A. That's correct.

19 Q. Oh, but you may get a fine of \$250,000?
20 Do you think you can pay that?

21 A. Eventually, after about 20 years.

22 Q. How about the maximum, the mandatory
23 special assessment fee of \$100?

24 A. I can pay.

25 Q. You can pay that?

1 A. Right now I can't, but I'll get a job.

2 Q. Can you go to the next page. Let me go to
3 page 7. Now, one of the other agreements was that
4 number 14, paragraph 14, provided that the defendant
5 fulfills the defendant's obligation as set forth
6 above, which means you have to go talk to the
7 presentence officer and you have to talk to the
8 people at the probation office so that they can do a
9 report on you. Provided that you've fulfilled those
10 obligations, the United States agrees not to bring
11 additional charges arising out of the facts forming
12 the basis of the superseding indictment; right?

13 A. Correct.

14 Q. So you know that superseding indictment is
15 about 25 or 30 pages; right?

16 A. That's correct.

17 Q. And it has a lot of facts in it, doesn't
18 it?

19 A. A lot of facts.

20 Q. And so not only do you escape the fact
21 that they could charge you with 25 to 50 other
22 incidents that you did for SNM; that they agree not
23 to bring any additional charges arising out of this
24 indictment; right?

25 A. Correct.

1 Q. So you know that that's the most you're
2 going to get; right?

3 A. Yes, sir.

4 Q. So you're going to get three years; right?

5 A. Yes, sir.

6 Q. So now you got arrested in Tennessee
7 December of 2015; right?

8 A. Yes, sir.

9 Q. And you've been in constant custody since
10 that date, have you not?

11 A. Yes, sir.

12 Q. So three years from that date would be
13 December 5th of 2018; is that right?

14 A. December 2.

15 Q. Oh, I want to make sure I don't get the
16 wrong date. December 2?

17 A. That's correct.

18 Q. So that is the latest date that you can
19 be -- that is the most time you will have to serve
20 on this particular case; right?

21 A. That's correct.

22 Q. And this isn't like what we call a 5K1
23 that other defendants have dealt with or we've heard
24 from in this case, where the judge gets to decide
25 the sentence. You have your sentence already

1 determined, do you not?

2 A. That's correct.

3 Q. Whereas other people may have to come in
4 here and tell the jury or the defendants in here
5 that they're taking a plea where the judge makes the
6 sentence if the Government files a document on their
7 behalf. That doesn't happen to you, does it?

8 A. No, sir.

9 Q. You're done.

10 A. After three years, it begins for me.

11 Q. They don't have to file anything for you.
12 You don't have to really have the judge stand up
13 here and tell you what your sentence is, because you
14 know you're getting three years plus a \$250,000 fine
15 plus \$100 special mandatory sentencing fee; right?

16 A. I know when it comes time for sentencing,
17 actual sentencing, it's up to the judge. And there
18 is no guarantees, as far as I was told.

19 Q. The only guarantee is: You know if he
20 accepts this plea --

21 A. If he accepts it, yes.

22 Q. -- then the most you get is three years?

23 A. Yes, sir.

24 Q. But if he doesn't accept the plea, what
25 does that mean?

1 A. I'm not sure. He decides how much time I
2 get, I guess.

3 Q. Well, didn't the magistrate talk to you
4 about that whenever you appeared in front of him?

5 A. More than likely. What I was told, it's
6 up to the judge.

7 Q. Hold on. I've got to ask you a question.
8 Okay?

9 A. Okay.

10 Q. Thanks.

11 A. Excuse me.

12 Q. That's okay. Now, after your plea
13 agreement, you went back to PNM North, or did you go
14 to a new facility? Did you go to cooperation pod?

15 A. Yes, I was at PNM North, yes.

16 Q. Eventually did you go to cooperation pod?

17 A. Yes.

18 Q. And when was that; do you recall?

19 A. I don't recall the exact month.

20 Q. I know when you were talking to Mr. Burke
21 earlier this morning, you talked about how you were
22 with several other individuals at one point in time,
23 or several times, where everybody was cooperating;
24 right?

25 A. Several places, yes.

1 Q. And in all those places you went to, you
2 were with people who were cooperating in this case;
3 right?

4 A. Yes, sir.

5 Q. And you guys went through the names a
6 while ago. I'm not going to do that. Those have
7 already been listed; right?

8 A. Yes.

9 Q. And at some point in time you were given a
10 tablet, were you not?

11 A. Yes, sir.

12 Q. And all the documents, at least up to that
13 date, were put on that tablet for you to review;
14 right?

15 A. Yes, sir.

16 Q. And everybody that was charged in this
17 case, even though they had pled guilty, still got to
18 keep their tablet, did they not?

19 A. Yes, sir.

20 Q. So had you not under the circumstances
21 violated the rules, you would have your tablet as of
22 today, would you not?

23 A. I would still be looking at pornographic
24 material today, yes.

25 Q. Okay. Well, I don't think you would be

1 able to do that, because aren't you required --
2 don't people come and pick up your tablets and they
3 send them back so that more discovery can be
4 downloaded on it?

5 A. Yes, sir.

6 Q. So when you guys decided to make that
7 conscious decision to -- you wiped your tablets
8 clean, did you not?

9 A. Yes, sir.

10 Q. And in order to reset the tablets so that
11 you could get Wi-Fi; right?

12 A. Yes, sir.

13 Q. Now, are you the one who came up with that
14 brilliant idea, or who was it that figured that out?

15 A. I believe it was maybe Roy Martinez.

16 Q. Roy Martinez? Benjamin Clark?

17 A. I think Roy Martinez was responsible.

18 From there, it was a group activity. I mean, I
19 didn't reset the computer myself, but once they
20 determined how to do it, it was done.

21 Q. Because you gave them -- because you're
22 all together, you gave them your tablet so they
23 could wipe out the discovery because it's more
24 important to be able to have the internet so you can
25 have an email account and so you can have Facebook

1 and so you can look at porn as opposed to looking at
2 discovery; right?

3 A. Yes, sir.

4 Q. But at that point in time, that didn't
5 make diddly-squat to you, because you had already
6 pled guilty; right?

7 A. I believe so.

8 Q. So it was more important for you be able
9 to look at the porn; right?

10 A. There is no need for me to review the
11 discovery.

12 Q. Well, but other people reviewed the
13 discovery and had discussions with you, did they
14 not?

15 A. They did.

16 Q. So all these people are out there, whoever
17 you're with -- I mean, you know, it's not like you
18 can look at porn all day. Somebody else has their
19 computer available, their tablet available, so they
20 can discuss what these documents say; right?

21 A. That's possible, yes.

22 Q. Well, that's not possible --

23 A. Nobody was interested in the discovery
24 once pornographic material was on the tablets. Once
25 we had access to the internet, no one was discussing

1 what was on anybody's tablet as far as discovery.

2 It was all about the internet.

3 Q. So you were all talking about who has the
4 best porno sites on their tablets?

5 A. Yeah.

6 Q. What were some of the porno sites you were
7 looking at, as opposed to looking at a 302 that you
8 had signed previously?

9 A. I would download the names of porno stars
10 and it would come up.

11 Q. That was it?

12 A. Pornography -- if you asked me what I
13 looked up, I'll tell you, yes, I looked up
14 pornography of all sorts.

15 Q. Did you ever hook up an email account?

16 A. I believe I attempted to hook up an email
17 account, yes. Yes.

18 Q. And this is at the same time that you're
19 receiving benefits from the Government where they
20 pay you money while you're there?

21 A. Yes, sir.

22 Q. And they were putting money on your
23 accounts. Are they giving you, like, unlimited
24 telephone calls that you can make to your family?

25 A. I was getting unlimited calls, yes.

1 Q. And they set up special visits with your
2 family, like your dad and stuff, did they not?

3 A. They let me see my dad, yes.

4 Q. They let you see your dad? All right.
5 And you got more privileges than you had when you
6 were stuck up there at PNM North; right?

7 A. Yes, this was at PNM North.

8 Q. But then you got down to Sandoval; right?

9 A. Yes, sir.

10 Q. A little difficult to get a Wi-Fi up there
11 at PNM North. There's not a McDonald's or a Walmart
12 across the street so you can hook up to their
13 internet; right?

14 A. Exactly. Yes.

15 Q. So we know that under the circumstances,
16 all those guys out there lost their privileges, did
17 they not?

18 A. Yes, sir.

19 Q. But before that, it wasn't uncommon for
20 people to sit around and discuss what was on these
21 tablets and what it said about somebody's discovery,
22 somebody's 302; right?

23 A. It wasn't -- as soon as we got our tablet,
24 people started messing with it and they discovered
25 they could reset it --

1 Q. Well, you had your tablet --

2 A. -- nobody had.

3 Q. -- for over a year basically.

4 A. Right.

5 Q. You got the tablet in maybe July or August
6 of 2016, and this didn't happen until February,
7 March, or April of 2017. You had your tablet for
8 six or seven months, did you not?

9 A. Yes.

10 Q. Okay. And my question is: It was just
11 common for everybody to look and compare notes on
12 what people said about what was going on. For
13 instance, people could look on that tablet and be
14 able to determine that you maybe had given a report
15 to the -- that you had debriefed with the
16 Government, didn't they?

17 A. That would be possible, yes.

18 Q. Well, people in your pod knew that, did
19 they not?

20 A. Knew what?

21 Q. That you had cooperated.

22 A. Yes, we were all in the pod as
23 cooperators.

24 Q. You could look at everybody else's and
25 say, "Oh, Ben Clark, let me see what you got." Or

1 Roy Martinez. All of you could see the discovery
2 that related to everybody; right?

3 A. If we hadn't reset our tablet, yes.

4 Q. If you hadn't started looking. But you
5 had six, seven, eight, nine months to do that; isn't
6 that correct?

7 A. By the time we got internet access, which
8 was I don't know how much later at Sandoval County.
9 But before then, when we first got our tablets, the
10 idea of resetting the computer was instantly on
11 people's minds when they got the tablets. So a lot
12 of people didn't even get to observe discovery at
13 all, because they reset the computer. They weren't
14 able to get Wi-Fi because they were at the North.
15 But they did reset the computer. So there was
16 nothing on it; right.

17 Q. So what you're telling us is: All of
18 these people who reset their tablets never told the
19 FBI or the prosecutors that they were doing that?

20 A. Eventually, probably, after it got busted.

21 Q. Well, wait a second. If you guys had your
22 tablets for eight or nine months before you could
23 reset the Wi-Fi, you guys were already messing with
24 that, but you knew, all of you knew, that you had
25 made a cooperation agreement with the Government

1 that you were going to abide by the rules. Isn't
2 that true?

3 A. That's correct. We're supposed to abide.

4 Q. And you didn't.

5 A. I didn't.

6 Q. You didn't pick up the phone and call
7 Mr. Acee or pick up the phone and call the
8 Government or send messages to somebody saying, "I
9 just want you guys to know that we're violating the
10 rules out here as it relates to our cooperation, and
11 we're not looking at our discovery because it's not
12 as important as looking at pornography."

13 A. That's correct. I preferred pornography,
14 yes.

15 Q. Okay. But from what you're saying is --
16 and some of the people did that from day one; right?

17 A. From day one they reset the computer with
18 the idea that they can attempt to get Wi-Fi.

19 Q. And so none of those people, from what I
20 understand, came forth because it wasn't for over
21 eight or nine months that they came out there to
22 Sandoval County and talked with you guys about how
23 the computers got reset; right?

24 A. Correct.

25 Q. So those people had been violating the

1 rules for quite some time; right?

2 A. That's correct.

3 Q. In the meantime, not all the cooperators
4 were out there with you, were they?

5 A. Excuse me?

6 Q. There were only about five or six of you
7 who sort of violated the rules and lost their
8 tablets; right?

9 A. Yes.

10 Q. Can you name those?

11 A. I can name some of them.

12 Q. Okay. Let's try it. It was you?

13 A. Me.

14 Q. There was Roy Martinez?

15 A. Correct.

16 Q. All right. Who else?

17 A. Freddie Munoz.

18 Q. Freddie Munoz?

19 A. Benjamin Clark.

20 Q. Benjamin Clark. Jerry Armenta, Jerry
21 Montoya; right?

22 A. Correct.

23 Q. You know that Jerry Montoya was the one
24 that snitched you guys off; right?

25 A. No, I don't know that.

1 Q. All right. So those were the main ones,
2 were they not, that violated the rules as it relates
3 to their tablets; right?

4 A. And a few others, yes.

5 Q. But there were other people that were
6 cooperating at the time that still had their
7 tablets; right? They weren't out there with you;
8 right?

9 A. I don't understand the question. Say
10 that --

11 Q. There were more cooperators who had agreed
12 to take a plea and work for the Government than all
13 of those that were out there with you. There were
14 more out there; more defendants who were in custody,
15 not necessarily in your pod.

16 A. Yes.

17 Q. All right. So they hadn't reset their
18 computers or their tablets had they?

19 A. I am not aware. If they weren't with me,
20 I had no knowledge whether they reset their tablet.
21 But those that were with me reset their tablet.

22 Q. So eventually we get to a point, after you
23 take your plea, that in September of 2016 Mr. Acee
24 asked you, even before that, "Hey, listen, Styx. I
25 want you to sit down and provide me an account of

1 your life and membership in the gang."

2 Do you remember that?

3 A. A general description of events, yes, sir.

4 Q. A general description of events. And you
5 did that; right?

6 A. Yes, sir.

7 Q. 24 handwritten pages; right?

8 A. Yes, sir.

9 Q. And a couple of addendums; right? In the
10 end, you got to a point where you're saying, "The
11 end," and then you wrote a few more pages; right?

12 A. Yes, sir.

13 Q. Like subsequent writings; right?

14 A. Well, yes. It was as I was writing the
15 journal, I left out something that I recalled later,
16 and I had already went to the next paper, so I added
17 a note to the PS.

18 Q. So then you could go back and do the PS?

19 A. Yes, sir.

20 Q. And the time you were writing this report,
21 you were having communications with the Government
22 or with Mr. Acee letting him know that you were
23 still working on this, were you not?

24 A. Yes, sir.

25 Q. All right. And would you share with him,

1 I think, some of the items that you were putting in
2 there, did you not, before you got the completed
3 version; right?

4 A. I don't think that I shared. During
5 preps, I mean, I put in the journal things that
6 we've talked about in the preps, but he didn't know
7 what was in the journal until he got it.

8 Q. All right. So after you did that, then
9 you still conditioned to have another series of
10 interviews and meetings with the Government, did you
11 not? Or at least with Mr. Acee, did you not?

12 A. Yes, I had additional prep.

13 Q. Additional prep?

14 A. Or debrief, is what you call it.

15 Q. Debriefs, on May 8 of 2017, and then you
16 got to the point where there was going to be a
17 trial; right? And then you went from doing debriefs
18 to trial preparation, did you not?

19 A. Yes, sir.

20 Q. A little bit of difference between
21 debriefs, where you're telling them what you know
22 about things, because they already knew a lot
23 because you had told them -- you had given them a
24 three-hour recorded interview, you had given them
25 your life history and talked with them a number of

1 times. So you moved from the debriefing portion to
2 the trial preparation portion; right?

3 A. Yes, sir.

4 Q. So now it's not so much you talking; it's
5 them telling you what's going to happen and the
6 questions they would be asking you. Isn't that
7 true?

8 A. Some of it, yes, sir.

9 Q. So that's called pretrial prep; right?

10 A. Yes, sir.

11 Q. And that's what you were talking about;
12 right? That you went from the debrief part to
13 pretrial part; right?

14 A. Yes.

15 Q. Anytime there was going to be a hearing or
16 a trial or something like that, they would talk with
17 you and let you know what was going to happen, that
18 there would be this trial, and you would be called
19 as a witness; right?

20 A. Prior to the trial, yes.

21 Q. And you would go over what they were going
22 to ask you and what they thought the Government
23 lawyers may ask you and what documents you needed to
24 look at when it came time for them to show you the
25 documents; right?

1 A. We would discuss my testimony.

2 Q. Yeah. You've seen these pictures before.

3 I mean, the pictures that we saw today, the
4 Government had shown you those pictures before you
5 ever came to trial, did they not?

6 A. Yes.

7 Q. So it wasn't a mystery whenever they put
8 up a picture up on the board, you knew who that was;
9 right?

10 A. Yes.

11 Q. It's called pretrial preparation. They're
12 preparing you for trial; right? They're preparing
13 you for what their theory of the case is, are they
14 not?

15 A. They're preparing me, yes.

16 Q. They're preparing you so you know what's
17 going to happen. You knew you were going to come to
18 trial. You knew you were coming today.

19 A. Yes, sir.

20 Q. And you met with these people recently,
21 did you not?

22 A. Yes, sir.

23 Q. When was the last time you met with them?

24 A. I don't recall. A week ago, maybe.

25 Q. A week ago; all right. And was it on a

1 weekend?

2 A. I think it was on a weekend.

3 Q. So we come over here and do trial during
4 the week right here from 8:00 a.m. to 5:00 or 6:00
5 at night, and then on weekends they bring you over
6 here so they can meet with you, or to their offices;
7 right?

8 A. Yes, sir.

9 Q. So you could do trial prep; right?

10 A. Yes.

11 Q. And you've done that a couple of times;
12 right?

13 A. Yes, sir.

14 Q. And each time that that happens, depending
15 upon what the situation is going to be, the
16 Government will ask you about people who you know or
17 may have had conversations with that are going to be
18 at trial; right?

19 A. Yes, sir.

20 Q. So for instance, they may ask you about,
21 well, what about Billy Garcia; right?

22 A. Yes, sir.

23 Q. What about Arturo Garcia; right?

24 A. Yes, sir.

25 Q. You know, what about Edward Troup; right?

1 A. Yes, sir.

2 Q. So they're the ones that remind you that
3 you didn't say this before; right?

4 A. They remind me that what?

5 Q. That you did not say anything about them
6 before; right?

7 A. They do not remind me of that at all. We
8 go over my statement, the previous statements, and I
9 give them my statement again.

10 Q. So you rehearse?

11 A. Yes, sir.

12 Q. That should be called -- instead of
13 debriefing, it should be called -- or pretrial
14 preparation, it should be called rehearsal; right?

15 A. As to the facts, yeah.

16 Q. Yeah. Getting ready for the game; right?

17 A. Getting ready for trial, yes.

18 Q. Preparing, looking at the game plan,
19 figuring out plays, what's going to happen. Be
20 prepared so that we know what's coming down the
21 road; right?

22 A. Yes, sir. Along with your honesty. They
23 make that a big point.

24 Q. Well, honesty is what you say it is;
25 right?

1 A. Honesty is honesty and they expect you to
2 be honest.

3 Q. It's not like, as Mr. Burke talked with
4 you about a while ago -- there's not a lot of --
5 it's not like when you guys are running around the
6 Penitentiary of New Mexico, back in 2007, that
7 there's pictures that they can now bring up; right?
8 They go and look for those pictures.

9 A. They've come up with a lot of pictures.

10 Q. They have pictures of you talking to any
11 of these individuals in Jurassic Park?

12 A. No, sir.

13 Q. Okay. So whatever happened, it's your
14 word about what somebody else says, because there is
15 nothing to document, is there?

16 A. That's correct. If I am who you say I am
17 in the S, why would it be hard to believe that we
18 had these discussions if I had the position that I
19 did.

20 Q. Because, Mr. Archuleta, you have to
21 continue to perform for them or else your plea will
22 be rejected and you don't want that to happen;
23 right?

24 A. I just have to tell the truth.

25 Q. But the truth is what you say it is.

1 A. Yes.

2 Q. All right. And we just have to believe
3 you?

4 A. I'm there. I know the truth. I lived the
5 life as an SNM Gang member for 25 years. I have
6 knowledge of incidents and conversations that took
7 place. That's how I lived.

8 Q. Hold on, Mr. Archuleta.

9 MR. BLACKBURN: Your Honor, I would ask
10 that that be stricken from the record. That was not
11 a question.

12 THE COURT: I'll strike that. That was
13 not responsive to the question, and the jury will
14 disregard it.

15 And just listen to Mr. Blackburn's
16 questions.

17 THE WITNESS: And answer yes or no, right.
18 BY MR. BLACKBURN:

19 Q. That was one of the things you rehearsed;
20 yes or no?

21 A. Answer the questions.

22 Q. Answer the questions. All right.

23 So you said that there was a time that you
24 had a conversation with -- let me go back. I'm
25 sorry. I'm getting ahead of myself.

1 You talked about a time that -- there was
2 a time that you guys -- that you formed a tabla. Do
3 you remember that?

4 A. Yes, sir.

5 Q. And that's when you were still there in
6 the penitentiary early on, was it not?

7 A. Yes, sir.

8 Q. So you've talked about the tabla, but at
9 one point in time, maybe in 2000, 2001, you tell me,
10 that you had the tabla that you said consisted of
11 Juan Mendez, Baby Rob, Michael Zamora, and Arturo
12 Garcia. Do you remember that?

13 A. I remember that, but I'm not sure of the
14 year. I think maybe the tabla was created later
15 than 2001, but --

16 Q. I'm asking you. I mean, I'm asking you
17 when the tabla was created. Do you know?

18 A. It was created around 2003 or 2004, maybe
19 a little before, maybe a little after. I didn't
20 keep a log.

21 Q. But the tabla was created, basically, was
22 it not, so that there could be discussions about
23 what is going on with the SNM business; but you
24 described that, did you not, as the tabla was
25 created so basically they would agree to every

1 decision that I had made during the days of the
2 mesa; right?

3 A. Yes.

4 Q. That's the way you described it. That
5 tabla was created to back up your decisions; right?

6 A. Yes.

7 Q. Because you were the leader; right?

8 A. I was one of them, yes.

9 Q. Now, you had put hits out on a lot of
10 people. Arturo Garcia. You put a hit out on him
11 one time, did you not?

12 A. No, I didn't.

13 Q. You didn't? Never?

14 A. Never.

15 Q. You were angry with him on occasions, were
16 you not?

17 A. Yes, I was.

18 Q. So at one point in time in 2009, 2010,
19 this discussion you had with him you talked about
20 earlier with Mr. Garcia, when did that happen, when
21 you were talking to him in the yard at the North, I
22 think is what you said?

23 A. Like when? Like in the year --

24 Q. Yeah, year.

25 A. It was right before my release, probably

1 around 2010.

2 Q. 2010. So that's a long time after the
3 Freddie Sanchez murder; right?

4 A. Yes.

5 Q. Because that was in 2010; right?

6 A. Yes, sir.

7 Q. So the time that you were talking about
8 this incident was several years after the fact;
9 right?

10 A. Yes, sir.

11 Q. And you said you were in the North
12 facility, and you basically said that you had heard
13 that, through Mr. Troup or somebody, that the
14 Rascons had not been involved in the incident down
15 in Southern New Mexico. Do you remember that?

16 A. I don't recall.

17 Q. All right. But anyway, you're having this
18 discussion allegedly with Mr. Garcia in the yard;
19 right?

20 A. Yes, sir.

21 Q. And you basically were upset with him, and
22 you made it very clear that you were upset because
23 you had put a hit on the Rascons and that had not
24 been acted on as stated; right?

25 A. One explanation, yes.

1 Q. You wanted to know why, if you put a hit
2 on those, why that was no longer in effect; right?

3 A. Why it wasn't done.

4 Q. Why it wasn't done. And you're saying
5 that his explanation to you was that some type of
6 paperwork had been given to Clark, and Clark took
7 that paperwork down to Southern New Mexico, because
8 that's where Fred Dawg was, and they didn't do a hit
9 on him and he changed the rules; right?

10 A. He changed the hit.

11 Q. He changed the hit.

12 A. Yes.

13 Q. Because Clark was a keyholder for that
14 facility down there, was he not?

15 A. Yes, sir.

16 Q. And so Clark could take the paperwork down
17 there and sit around with all those people and tell
18 them, "Here's what's going on"; right? Because he's
19 the keyholder to that pod; right?

20 A. Yes, sir.

21 Q. But Earn Dog was also the keyholder to
22 another pod, was he not?

23 A. I'm not sure.

24 Q. So who takes precedence? Clark or Earn
25 Dog?

1 A. Whatever comes from Arturo and the tabla,
2 that's what takes precedence.

3 Q. So did you know that Billy Cordova tried
4 to kill Fred Dawg about in 2005, 2006 by stabbing
5 him?

6 A. I wasn't aware that Fred Dawg got stabbed,
7 no.

8 Q. I don't know that he ever made it, but are
9 you aware that Billy Cordova tried to kill him at
10 the North facility?

11 A. I was not aware.

12 Q. I'm sorry, not the North facility. The
13 South facility. I'm sorry. Is this the first time
14 you're hearing this?

15 A. That Billy Cordova tried to kill Earn Dog
16 Sanchez? That's the first time.

17 Q. Wow. A good reason for you to read the
18 tablet as opposed to looking at the porn; right?

19 A. Once the porn was there, I was was no
20 longer able to look at it. But...

21 Q. But you knew for a fact that members were
22 going to be moved to -- as you said, Fred Dawg was
23 going to be moved to the South, and had been down to
24 the South for a long time, for the better part of
25 five or six months, and no one had taken any action

1 on him, in particular the people that you wanted to
2 do the hit, which was the Rascons; right?

3 A. No, I didn't want the Rascons to do the
4 hit. That wasn't my idea. My idea was --

5 Q. To take Fred out regardless.

6 A. The Rascons --no, that didn't concern me.
7 My issue was: There was a hit on the Rascon
8 brothers from myself and why that wasn't observed.

9 Q. All right.

10 A. So what if there's a hit on Fred Dawg?
11 It's something he came up with.

12 Q. So supposedly, according to you, you knew
13 for a fact that the Rascons had been down in
14 Southern New Mexico for quite some time, did you
15 not?

16 A. Yes, sir.

17 Q. And you knew also that Fred Dawg was down
18 in Southern New Mexico, did you not?

19 A. No, I did not.

20 Q. Well, I think you said -- you said that
21 they were all in the same pod down there; right?

22 A. Yeah, I became aware of that after.

23 Q. And you said there was something about a
24 roll call so that somebody knows who has been there.
25 Like, for instance, tell me who is in this pod, this

1 pod, and this pod; right?

2 A. Yes.

3 Q. And a roll call takes -- for somebody --
4 you don't pick up the phone and say, "Hey, Ben
5 Clark, can I talk with you? Can you tell me what's
6 going on down there?" This isn't something that
7 takes 10 minutes if you have a smart phone, does it?

8 A. That's correct.

9 Q. It takes a long period of time to do that,
10 does it not?

11 A. No, sir, you can be in communication with
12 other people's visitors. I could be in contact with
13 Benjamin Clark's wife, who goes to visit him in
14 Cruces. So our wives talk and we communicate and
15 it's a day or two, two days.

16 Q. But if there's no visitors going in, and
17 there's no visitation going on, and no one is coming
18 in and saying, "We did it through our wives," or
19 anything like that, it's going to take a while to do
20 a roll call; right? If you're just going through
21 inter-prison mail; right?

22 A. Yes.

23 Q. That doesn't happen overnight; correct?

24 A. Correct.

25 Q. Because to get inter-prison mail, first of

1 all, it's got to get by the guards, the STIU cops;
2 right?

3 A. Yes.

4 Q. And to make sure then it's going to go
5 down to somewhere, even if it's going from the North
6 facility to the South facility, that does not happen
7 overnight when you're doing it via mail; right? It
8 takes quite a bit of time; right? Because first of
9 all, I've got to get by the STIU cops; right?

10 A. Yes.

11 Q. And assuming that happens, it's still not
12 like it's going to get over there overnight; right?

13 A. Correct.

14 Q. So it's not like mailing something from
15 the Federal Express, you mail something in
16 Albuquerque and it's going to Belen. It goes all
17 the way to the Federal Express facility in Memphis,
18 Tennessee, before it comes back. Sort of what
19 happened with inter-prison mail. It's slow as
20 molasses; right?

21 A. A week.

22 Q. At a minimum; right? That's just to get
23 it down there. How long does it take to get it
24 back?

25 A. Another week.

1 Q. So we're talking a long period of time, in
2 particular, if they have to write about something;
3 right?

4 A. Yes.

5 Q. So you were really upset, as you said.
6 You said you've given -- you have made it clear --
7 you were making it clear to Arturo that day that you
8 were upset with him because he did not act on the
9 Rascons, because you had put the hit on the Rascons;
10 right? Another person that you wanted these people
11 to be able -- you were upset with him because they
12 took the wrong side; isn't that true?

13 A. That was an agreement between me and
14 Arturo, yes.

15 Q. But he didn't act on that, did he?

16 A. Yes, and I wanted an explanation, yes.

17 Q. So you wanted to hit him, did you not?

18 A. I did not want to hit him.

19 Q. To this day, you're writing this document
20 in September of 2016 after you had left, after you
21 had gone to Tennessee, after you had decided your
22 life was changing, after you had entered a plea, and
23 you're writing this document and you're putting in
24 here, "I was upset that he had canceled the hit on
25 Cheeky"; right?

1 A. I was. I was. But there was never no
2 green light on him, on Arturo Garcia.

3 Q. All right. Can a green light ever be
4 lifted?

5 A. I suppose it can.

6 Q. You can lift one?

7 A. If I put it, yes.

8 Q. And I think you stated today that the
9 paperwork that Arturo Garcia had on Fred Sanchez was
10 basically given to Clark before he went down to
11 South. Isn't that what you're telling us?

12 A. He was made aware of some paperwork. I'm
13 not sure how it got --

14 Q. Well, did you not state earlier today
15 that --

16 A. He either sent it with Benjamin or sent
17 word about it with Benjamin.

18 Q. I think it's been clear in all of your
19 debriefs that you basically -- or in your writings
20 that you said that when you're recalling --

21 MR. BECK: Objection, relevance to what
22 Mr. -- to what counsel thinks is clear from --

23 MR. BLACKBURN: I will restate that, Your
24 Honor. I'm sorry.

25 THE COURT: All right. Please do.

1 BY MR. BLACKBURN:

2 Q. Did you not state that the paperwork was
3 given to Ben Clark for him to take down to Southern
4 New Mexico?

5 A. I don't recall. Either it was given to
6 him or he was told about it. Word was sent, is the
7 idea that I was trying to say.

8 Q. Did you know that Ben Clark checked
9 himself in before the night that this happened, or
10 the day that this happened?

11 A. No, I wasn't aware of that.

12 Q. Well, you talked to Ben Clark. You were
13 upset with Ben Clark. Did Ben Clark ever say, "Hey,
14 King leader, here, you know the situation that
15 happened down there? I checked myself in and didn't
16 participate in what was going on with Fred Dawg down
17 in Las Cruces." Did he ever tell you that?

18 A. No, sir.

19 Q. Well, that's not being very honest with
20 you, is it?

21 A. No, sir.

22 MR. BLACKBURN: May I have just a second,
23 Your Honor?

24 THE COURT: You may.

25 MR. BLACKBURN: I'll pass the witness.

1 THE COURT: Thank you, Mr. Blackburn.
2 Mr. Solis.

3 MR. SOLIS: I have three quick questions,
4 Your Honor.

5 THE COURT: All right, Mr. Solis.

6 CROSS-EXAMINATION

7 BY MR. SOLIS:

8 Q. Hello, Mr. Archuleta. How are you, sir?

9 A. Good.

10 Q. Given your long-time membership in the
11 SNM, I'll ask you three questions that you know the
12 answer to, Mr. Archuleta. So being a member of the
13 SNM or a former member, a longtime member of this
14 association, so you say, is it fair to say that the
15 Department of Corrections always has the SNM under
16 close scrutiny, always on their radar?

17 A. I would say yes.

18 Q. You would say yes?

19 A. Yes.

20 Q. So if something happens, that's even more
21 true, that they're even under more scrutiny and take
22 some reactive steps, maybe?

23 A. Yes.

24 Q. And the final question is: When that
25 something happens, it tends to reflect on all SNM

1 members. Isn't that true?

2 A. I don't understand the question.

3 Q. Sure. When something happens, you know,
4 you being under -- the members being under the
5 scrutiny and radar of the Corrections, it reflects
6 on all of you.

7 A. They lock us down. Is that what you mean?

8 Q. Sure. All of them.

9 A. Yeah.

10 MR. SOLIS: Thank you.

11 THE COURT: Thank you, Mr. Solis.

12 Mr. Benjamin?

13 MR. BENJAMIN: Your Honor I'd move,
14 without objection, for Government's 693 and request
15 permission to publish as well.

16 THE COURT: Any objection to that,
17 Mr. Beck?

18 MR. BECK: No, Your Honor.

19 THE COURT: All right. Any other
20 defendant?

21 Not seeing or hearing any objection,
22 Government's Exhibit 693 will be admitted into
23 evidence.

24 (Government Exhibit 693 previously
25 admitted.)

1 CROSS-EXAMINATION

2 BY MR. BENJAMIN:

3 Q. We keep hearing about these rules being
4 hard and fast in the SNM; right?

5 A. Yes.

6 Q. And one of the rules is: You don't
7 pretend to be somebody you're not.

8 A. I would suppose.

9 Q. If I get sent to prison, I shouldn't walk
10 in and tell somebody I'm SNM?

11 A. If you're not.

12 Q. Who is Billy Boxer?

13 A. Billy Boxer?

14 Q. Yes.

15 A. I don't know a Billy Boxer.

16 Q. You don't know a Billy Boxer, who you
17 sponsored into the SNM?

18 A. I don't recall a Billy Boxer or sponsoring
19 in a Billy Boxer.

20 Q. Do you remember meeting a kid?

21 THE COURT: Mr. Benjamin, I'm going to
22 take 693 out. It was admitted on April 12. So it's
23 already in evidence. So I'm not going to admit it
24 twice. We'll rely on the prior --

25 MR. BENJAMIN: I apologize, Your Honor. I

1 looked and I missed it.

2 BY MR. BENJAMIN:

3 Q. Do you remember meeting a kid at the
4 methadone clinic?

5 A. I remember a kid being brought to me, yes.

6 Q. And it was you and him at the methadone
7 clinic; right?

8 A. He was brought to me by Willie Amador,
9 yes.

10 Q. And he tells you who he is, and he tells
11 you he was brought into the SNM by Gerald Archuleta;
12 right?

13 A. Yes, that was explained to me by Willie,
14 that this kid says he knows a Gerald Archuleta, that
15 he's good friends with him, and he brought him in,
16 yes.

17 Q. You're kind of smiling; right? Do you
18 remember the story?

19 A. It was like a joke, because this guy
20 didn't even know he was talking to Gerald Archuleta,
21 and he wasn't even an SNM Gang member, as far as I
22 knew.

23 Q. Right. And it starts out kind of, as far
24 as you knew, but then you're sure by the end of this
25 that you don't know this kid?

1 A. That's correct.

2 Q. You didn't bring this kid into the SNM?

3 A. No, sir.

4 Q. He's not an SNM member?

5 A. That's correct.

6 Q. Okay. You didn't ever end up taking any
7 action against this kid, did you?

8 A. No, sir.

9 Q. And that violates one of your rules?

10 A. Not really.

11 Q. Not really?

12 A. He wasn't an SNM Gang member. If we were
13 in prison, we might have slapped him around. But
14 we're on the streets at the methadone clinic. We
15 thought it was a joke, funny, that this kid would be
16 making claims to knowing somebody standing in front
17 of him, and we thought of it as a joke.

18 Q. You thought of it as a joke at that
19 particular time because that's a decision you made
20 on the spot.

21 A. Right.

22 Q. That was just your interpretation of the
23 rules and how you wanted to implement and use the
24 rules on that day?

25 A. I didn't even think of the rules. I just

1 thought of it as a joke.

2 Q. Because they aren't really rules; right?
3 They're just kind of suggestions or things that you
4 like to pass around. But they don't have any real
5 meaning?

6 A. It depends on which rule you're talking
7 about.

8 Q. Well, I mean, the whole rule about being
9 an informant; right?

10 A. Yes, there is a rule against that.

11 Q. Would it surprise you that there is
12 approximately 100, quote, unquote, SNM members that
13 have been rounded up in this indictment or in other
14 related cases?

15 A. No, it wouldn't surprise me.

16 Q. Okay. And I don't have the numbers in
17 front of me, but about half of those are
18 cooperating?

19 A. That wouldn't surprise me.

20 Q. That doesn't sound like a real
21 hard-and-fast rule not to cooperate.

22 A. They know the consequences.

23 Q. Well, that's what you're telling us,
24 but -- so did everybody on the streets know the
25 consequences not to impersonate a gang member;

1 right?

2 A. It's completely different. Cooperating
3 and impersonating a gang member -- you've seen the
4 pictures of these murder victims. That's for
5 cooperating.

6 Q. Government's 693, please.

7 That's you; right?

8 A. Yes, that's me.

9 Q. Okay.

10 A. Yeah, that's me.

11 Q. That was you essentially on April 28 when
12 you were finally brought back to New Mexico; right?

13 A. Yes, sir.

14 Q. Okay.

15 A. I believe I had already been back for a
16 while, but --

17 Q. Okay. For lack of a better term, that's a
18 booking photo; right?

19 A. That was the day of the superseding
20 indictment.

21 Q. Okay. The one that you managed to skip
22 out on; right?

23 A. I was included in it.

24 Q. As Count 8, but you were kind of included
25 as a special person. Your deal was already set in

1 stone when they made that new indictment; right?

2 A. It wasn't set yet.

3 Q. You hadn't started cooperating in January
4 of 2016?

5 A. Yes, I started cooperating. But the
6 deal -- the plea wasn't given to me as to what I
7 would be getting until after that.

8 Q. Well, when they filed the second
9 superseding indictment, they filed it with a charge
10 that capped you at life?

11 A. No.

12 Q. Right? Well below life?

13 A. Yes, sir.

14 Q. It capped you at what?

15 A. Three years.

16 Q. And so your deal was set in stone; right?

17 A. Okay. Yes.

18 Q. I mean --

19 A. Yes.

20 Q. Okay.

21 MR. BENJAMIN: Your Honor, may I ask, I
22 was going to get into another line of questioning,
23 the first of which is I was going to ask him to
24 review a document? Is this a good time for a break?

25 THE COURT: It's a little early for it.

1 Go ahead and review the document.

2 MR. BENJAMIN: May I approach?

3 THE COURT: You may.

4 BY MR. BENJAMIN:

5 Q. Do me a favor. Take a look at that and
6 tell me if you recognize what that is. I'm going to
7 give you a clean copy so you don't have to read my
8 handwriting. But that's referred to as a Kastigar
9 letter?

10 A. Yes.

11 Q. And you kind of moved away from the
12 microphone.

13 A. Yes, sir.

14 Q. That was given to you in January of 2016;
15 right?

16 A. Yes, sir.

17 Q. And that's a debrief at the Federal Bureau
18 of Investigation's office; right?

19 A. Yes, sir.

20 Q. And you sat down, presumably you, your
21 attorney, and several agents?

22 A. Yes, sir.

23 Q. And the reason for that -- I guess a
24 better way to ask it is: What do you understand the
25 reason to be for that Kastigar letter?

1 A. So I wouldn't be charged with things that
2 I admitted to as a part of the SNM Gang. I mean,
3 activities that I took part in as SNM Gang, is how I
4 understood it.

5 Q. And that was limited to the information
6 that you were going to provide orally, though;
7 right?

8 A. Would you repeat the question?

9 Q. Okay. I think -- and you kind of
10 explained it pretty good. You were going to sit
11 down with them, with the FBI, and they were going to
12 ask you questions which a lot of times start out
13 with, "Tell me what you know," or something general;
14 right?

15 A. Yes, sir.

16 Q. Is that what happened?

17 A. Yes, sir.

18 Q. Then they may have said, "Tell me what you
19 know about the SNM"?

20 A. Yes, sir.

21 Q. And when you started talking about the
22 SNM, you understood that they were not going to not
23 use the statements that you make at that debriefing.

24 A. Yes, sir.

25 Q. Did they explain to you that they could

1 use other information they had against you?

2 A. No, sir.

3 Q. Okay. Are you aware of what the term
4 "derivative use" means?

5 A. No, sir.

6 MR. BENJAMIN: May I approach Your Honor?

7 THE COURT: You may.

8 BY MR. BENJAMIN:

9 Q. That's a clean copy. Go ahead and take a
10 look.

11 A. Review the Kastigar?

12 Q. Actually, the second sentence. I was
13 getting ahead of myself. I apologize.

14 MR. BECK: And Your Honor, I'm going to
15 object to hearsay. I don't think he needs his
16 memory refreshed yet. I don't mind it sitting
17 there, but not testifying from the document.

18 THE COURT: I'm not sure how much in there
19 is going to be hearsay, so I'll let Mr. Benjamin
20 conduct his cross with it. Overruled.

21 BY MR. BENJAMIN:

22 Q. That's a copy of your Kastigar letter;
23 correct?

24 A. Yes.

25 Q. It's dated January 21, 2016, and then it's

1 signed by you on the back, the second page.

2 A. Yes, sir.

3 Q. And that says, "No statements made by your
4 client during the debriefings will be used in the
5 Government's case-in-chief against your client in a
6 criminal case"; right?

7 A. Yes.

8 Q. I'm referring to paragraph 2.

9 A. Yes, sir.

10 Q. You understand what a criminal case is;
11 right?

12 A. Yes, sir.

13 Q. That's what we're in right now?

14 MR. BECK: May we approach, Your Honor?

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 THE COURT: What are you thinking?

19 MR. BECK: I think he's just reading from
20 the document. It's hearsay.

21 THE COURT: Well, I guess I don't see
22 what's hearsay in a Kastigar letter. What's going
23 to be hearsay?

24 MR. BECKER: I think he's offering the
25 statement that we're not using the statements

1 against him in the case-in-chief for the truth of
2 the matter asserted.

3 THE COURT: Well, it's a contract, in the
4 Government's words. I guess I'm having a hard time
5 seeing what the problem is.

6 MR. BECK: I think it's both parties'
7 words. I think the problem is hearsay.

8 THE COURT: It's kind of like a contract,
9 though. That wouldn't be hearsay.

10 MR. BECK: Not if it's being offered for
11 the legal effect of the contract.

12 THE COURT: It's like your contracts you
13 had in the SNM case, you had organizational charts
14 and things like that in the first trial. It's kind
15 of like that, isn't it? Just the rules of the
16 organization. It's the rules of the relationship.

17 MR. BECK: Well, and I think we were
18 offering that for a different purpose, for the
19 purpose that the rules were there; not for the
20 purpose of statements in there. I mean, I think he
21 can ask.

22 THE COURT: Even if it's statements, it's
23 the Government's statements, it's kind of hard to
24 keep it out. I don't know. I'm going to probably
25 let Mr. Benjamin do what he wants with this. I'll

1 think about it over our lunch hour, but it's not
2 ringing any bells for me.

3 MR. BENJAMIN: Thank you.

4 (The following proceedings were held in
5 open court.)

6 THE COURT: All right, Mr. Benjamin.

7 MR. BENJAMIN: Thank you, Your Honor.

8 BY MR. BENJAMIN:

9 Q. We were talking about -- we're in a
10 criminal case right now?

11 A. Yes, sir.

12 Q. And so in the debriefing they're not
13 allowed to use any statements that you provide them
14 in that debriefing; right?

15 A. As I understood it.

16 Q. Thank you. Like a lot of contracts, there
17 is an exception down below that refers to something
18 else. It refers to paragraph 3 that's right below
19 what we're talking about.

20 MR. BECK: Your Honor, if he wants to move
21 it into evidence, we don't have a problem with that.

22 THE COURT: Do you want to move it in?

23 MR. BENJAMIN: I will move it in, Your
24 Honor.

25 THE COURT: Do you have a number

1 Ms. Gilbert?

2 MR. BENJAMIN: Ms. Gilbert will give me
3 one if I could have just a minute, Your Honor.
4 BC-1.

5 THE COURT: Any objection? Not hearing or
6 seeing any, Defendant's Exhibit BC-1 is admitted
7 into evidence.

8 (Defendants' Exhibit BC-1 admitted.)

9 MR. BENJAMIN: May I approach the witness?

10 THE COURT: You may. Why don't we take up
11 questions about it after lunch?

12 All right. We'll be in recess for about
13 an hour. All rise.

14 (The jury left the courtroom.)

15 THE COURT: All right. We'll be in recess
16 for about an hour.

17 (The Court stood in recess).

18 THE COURT: Let's go on the record. We've
19 got all the defendants and attorneys for everybody.

20 Mr. Solis, you wanted to say something, so
21 why don't I give the floor to you.

22 MR. SOLIS: Well, I guess the Court is
23 wondering where we're at on this proposed
24 stipulation.

25 THE COURT: Yeah. I can't force a

1 stipulation, but if you step to the podium and say
2 the things I sort of sketched out, I guess I'd be
3 inclined to uphold an objection under 403 that why
4 do we need the evidence if you're not contesting
5 that.

6 MR. SOLIS: So you would require that I do
7 that in front of the jury?

8 THE COURT: Well, I think they need to
9 hear that you're not contesting that.

10 MR. SOLIS: I don't like the optics of
11 that, stepping up here and saying we're not
12 contesting the items His Honor talked about.

13 THE COURT: I understand that.

14 MR. SOLIS: Again, my position is that,
15 one, having looked at the indictment, these
16 activities are here just December of this year. I
17 would argue it's beyond the parameters and scope of
18 the indictment for this racketeering activity. And
19 again, as I mentioned this morning, what I'm
20 suggesting is the problem here tracks basically the
21 language of 403, Your Honor, in that this evidence
22 constitutes unfair prejudice for the reasons I
23 mentioned; undue delay. The Court is concerned
24 about that. Wasting time. The Court has made it
25 clear that it's a major concern; and needlessly

1 presenting cumulative evidence. We've had multiple
2 witnesses now, and the record is pretty much replete
3 with evidence of racketeering activity.

4 One of the cases I wanted to cite earlier
5 was U.S. versus Varoudakis. And one of the holdings
6 there was that prejudice to an opponent can be said
7 to be unfair when the proponent of the evidence
8 could prove the fact by other nonprejudicial
9 evidence. I think there is plenty of that already
10 in the record.

11 The unfair prejudice here promotes the
12 jury's instinct to punish. And again, my concern is
13 that should there be some doubt, given the dubious
14 character and nature of the witnesses that --
15 alleging participation in murder, and then they hear
16 this evidence just in December, that they would be
17 provoked to punish simply on that new, more recent
18 racketeering -- alleged racketeering evidence.

19 So those are my concerns, Your Honor.
20 Should the Court rule not in my favor, then here's
21 the other concern I have. I'd like to see how
22 they're going to authenticate these calls. What I
23 don't want to happen is the calls be played and then
24 they offer in evidence and it turns out that the
25 custodian for those calls is not correct or is not

1 appropriate, and then we'd object, the Court would
2 sustain the objection, but you can't unring that
3 bell once those calls are played, Your Honor.

4 So that's kind of where we're at, Your
5 Honor.

6 THE COURT: Okay. Well, I understand.
7 All right.

8 Mr. Castle, you had something?

9 MR. CASTLE: Yes, Your Honor. This
10 suggested process that the Court had indicated
11 concerning Mr. Munoz -- we are objecting to it.
12 Credibility is everything. Your Honor was a trial
13 lawyer. I'm already going to have a jury who I put
14 a competency requirement on in opening, it's not
15 been denied. We've got convictions of Mr. Archuleta
16 that are being denied, and I've got to tell you, I
17 feel in some ways this is putting me differently
18 than everyone else.

19 Yesterday Ms. Armijo got up in front of
20 the jury and was making a point with Sammy Griego
21 that he really didn't have any other convictions --
22 not really; that he didn't have any convictions that
23 were not drug convictions. And the question was:
24 "So is it fair to say that your convictions all
25 revolved around controlled substances?"

1 "Answer: Yes, ma'am. Trafficking."

2 It was only because we did our homework
3 that the jury wasn't mislead. We're not doing the
4 instruction against her. We're not saying,
5 Ms. Armijo, get up here in front of the jury and
6 tell everybody you accidentally misled them. Other
7 attorneys -- I'm not trying to make anybody look
8 bad -- other attorneys have questioned witnesses,
9 and I'll just use Mr. Griego as an example. You
10 know, Mr. Griego is asked questions like, "Look.
11 You go back with the pretrial meeting with the
12 prosecutor, and you're told, 'Sleazy, you can't say
13 that. You've got change your story, because you're
14 getting paid \$15,000.'"

15 You know, and so if we're going to start
16 doing this and we're going to all have to retract
17 something that we made a mistake about, I think that
18 it has to be everyone. Otherwise, I'm getting
19 singled out.

20 Your Honor, the definition of antisocial
21 personality disorder -- Mr. Munoz demonstrates all
22 the attributes, every single one of them. I don't
23 think any of us can feel any confidence he hasn't
24 been diagnosed; it's just we haven't gotten medical
25 records at the time. I'm not relitigating that.

1 So I really feel like if I have to do this
2 in front of a jury, and no one else does, it really
3 puts us at a disadvantage. And I feel bad what
4 happened, Judge. That's not the issue. But he
5 answered, "No, I'm not," and I haven't put on any
6 evidence that shows an actual diagnosis, and I think
7 the jury knows if I had it, I would, because we did
8 it with the other witnesses, and I showed them where
9 they were diagnosed right there in the record.

10 So I think we're trying to swat a fly with
11 a bazooka here, and I just feel like this is unfair
12 to both myself and my client.

13 THE COURT: All right. Well, let me think
14 about it. It sounds like I may have to draft my own
15 instruction. I will tell the Government that this
16 Cupit thing just seems real borderline. I'm not
17 inclined to allow the Government to increase it to
18 1.35 and be up to two hours with this guy. If I
19 don't totally exclude him, then I'll probably keep
20 you to the .6 that was on the original sheet.

21 MS. ARMIJO: Your Honor, the sheet was
22 .75.

23 THE COURT: You know, it was .6, then it
24 went to 1.35. This is the wrong direction to be
25 going. All rise.

1 (The jury entered the courtroom.)

2 THE COURT: We need to wait just a minute
3 here to get Mr. Archuleta back on the stand.

4 All right, Mr. Archuleta, if you'll come
5 back up to the witness box, and I'll let you know
6 you're still under oath.

7 Mr. Benjamin, if you wish to continue
8 cross-examination of Mr. Archuleta, you may do so at
9 this time.

10 MR. BENJAMIN: Thank you, Your Honor.

11 THE COURT: Mr. Benjamin.

12 BY MR. BENJAMIN:

13 Q. Mr. Archuleta, did you have a chance to
14 take a look at that letter over the lunch hour?

15 A. Yes, I kind of looked over some of it.

16 Q. Okay. And that doesn't say that you're
17 not going to be charged; right?

18 A. That's correct.

19 Q. I'm sorry?

20 A. That's correct.

21 Q. Okay. And it just says statements you
22 said in debrief aren't going to be used against you.

23 A. Yes, sir.

24 Q. We covered this briefly, but I wanted to
25 find out: When you were housed with the other

1 cooperators -- I'm not asking the facility -- one of
2 those individuals with you was Billy Cordova;
3 correct?

4 A. Yes, sir.

5 Q. And Billy Cordova is one of the
6 individuals who I guess reset his tablet, is the
7 term we're using?

8 A. Billy Cordova did not have a tablet.

9 Q. But the tablets were being passed around?

10 A. Not with Billy Cordova, no.

11 Q. Why was he special?

12 A. He wasn't with us at the time we reset our
13 tablets.

14 Q. When did you reset your tablet?

15 A. I reset it when I got it. Whenever they
16 issued them to us, that week, I would say, at the
17 facility we reset our tablet. We wiped it clean,
18 trying to get Wi-Fi, but we weren't able to obtain
19 Wi-Fi until we got to Sandoval County. However, the
20 tablets were already wiped clean.

21 Q. Do you remember the tablets came to you
22 with discovery on them; right?

23 A. Yes, sir.

24 Q. Then they got the tablets shipped back,
25 and then the tablets came back with more discovery?

1 A. Not ours.

2 Q. And then all of the tablets were being
3 shipped back, and then all the tablets came back
4 again with more discovery?

5 A. At the time that our tablets were to be
6 collected, we advised our lawyers that we would -- I
7 don't know the word for it -- but just that we
8 didn't need our tablets updated.

9 Q. There was a protective order that the
10 marshals and the jails were inspecting those tablets
11 under. And the first time that was brought up was
12 when that was brought up in April of 2017 that the
13 tablets had been wiped; yes?

14 MR. BECK: Objection, foundation, hearsay.

15 THE COURT: Overruled.

16 BY MR. BENJAMIN:

17 Q. You have a look on your face.

18 A. I'm trying to understand the question you
19 asked me.

20 Q. The tablets were given to you in August of
21 2016?

22 A. While we were at the North facility.

23 Q. Right? Okay. And then the tablets would
24 be taken back and reloaded with discovery?

25 A. Yes.

1 Q. And the tablets were accounted for. They
2 were shipped back and shipped to the facility, and
3 everybody wanted to know where all the tablets were,
4 mainly the people that paid for them; right?

5 A. Yes.

6 Q. So they were shipped back about once a
7 month or once every other month.

8 A. Yes.

9 Q. And then in April of 2017 is when the news
10 was told to everybody that some people had reset
11 their tablets?

12 A. Okay.

13 Q. So it wasn't the first week that you had
14 the tablet that the tablets were reset.

15 A. Yes, it was. That was the first time we
16 reset it. We weren't able to obtain Wi-Fi until we
17 got to Sandoval County, but we reset them
18 immediately, thinking there was a way that we might
19 be able to obtain Wi-Fi. The North facility wasn't
20 able to obtain Wi-Fi at the time we reset our
21 tablet, until we were moved to Sandoval County
22 because it was next to a Walmart and we were
23 receiving Walmart Wi-Fi.

24 Q. I want to be clear. Your position is your
25 tablet was reset as of August or September of 2016?

1 A. It was reset shortly after I got it,
2 whenever it was issued to me. It was reset at the
3 North facility, yes.

4 Q. And all I'm looking for is a yes or no,
5 because I'd like to move on. Was that August?

6 A. I'm not sure about the dates, and all
7 that. So that's why I elaborated. But go ahead.

8 Q. Was it August of 2016?

9 A. I have no idea.

10 Q. Was it September of 2016?

11 A. I have no idea.

12 Q. Was it November 2016?

13 A. What was?

14 Q. What date was your tablet reset by, in
15 your opinion?

16 A. Can you tell me when they were issued to
17 us.

18 Q. Let's say they were issued August 1st of
19 2016.

20 A. If they were issued August 1st, if I got
21 my tablet on August 1st, I reset tablet by August
22 14, I would say. Those are just approximately.

23 Q. And that's fine. One of the things that
24 you talked about was how you had others kill for
25 you; right?

1 A. Yes.

2 Q. You issued orders and other people did
3 that?

4 A. Yes.

5 Q. You let others face the danger for you of
6 being injured.

7 A. That comes with leadership and soldiers.

8 Q. But coming with -- leadership also comes
9 with accepting responsibility to your actions;
10 right?

11 A. I'm doing that today.

12 Q. You're accepting a life sentence today?

13 A. I'm accepting responsibility for all the
14 things that I participated in with the SNM.

15 Q. Under a three-year deal.

16 A. That's correct.

17 Q. You didn't get a sentence that's
18 commensurate with what you did?

19 A. No, sir, I wasn't.

20 Q. Your sentence is not equal to what you've
21 done?

22 A. No, sir. I wasn't charged with a double
23 murder. I was charged with assault on an inmate,
24 conspiracy to assault, which carried three years,
25 but some of these individuals are charged with

1 double murders.

2 MR. BENJAMIN: Objection, Your Honor,
3 nonresponsive.

4 THE COURT: I'm going to strike that
5 answer, and the jury will disregard it and not
6 consider it in its deliberations. Mr. Benjamin.

7 BY MR. BENJAMIN:

8 Q. You're not facing a life sentence?

9 A. No, sir.

10 Q. You're not facing the dangers that others
11 faced when you told them to take and execute hits
12 for you; right? Frederico Munoz?

13 A. No, sir. The only thing I'm facing is
14 being executed by active SNM Gang members because of
15 my cooperation. That's all that I'm facing.

16 Q. And you would have us believe that even
17 though you didn't do anything to Billy Boxer?

18 A. Do you actually believe that if people
19 cooperate against the SNM that you won't be targeted
20 for execution?

21 Q. I don't believe you, no.

22 A. I took part of it, I know, because I was
23 part of that life. I was involved in the murder of
24 Matthew Cavalier, and he was executed because he was
25 an informant, and that's how I know, and that's a

1 fact.

2 Q. And you got four years for that.

3 A. That's a fact, yes.

4 Q. And you could still be charged for that
5 offense?

6 A. I have no idea.

7 Q. But you can still be charged for that
8 offense. That murder was in furtherance of SNM
9 activities; right?

10 A. Yes, sir.

11 Q. And you've been promised that all you're
12 going to get for the 12 assaults that you did in
13 furtherance of the SNM, for the Matthew Cavalier
14 murder in furtherance of the SNM, is three years if
15 your plea agreement is accepted.

16 A. Yes, sir.

17 MR. BENJAMIN: Pass the witness.

18 THE COURT: Thank you, Mr. Benjamin.

19 Any other defendant have cross-examination
20 of Mr. Archuleta?

21 Mr. Cooper.

22 MR. COOPER: Thank you, Your Honor. May
23 it please the Court.

24 THE COURT: Mr. Cooper.

25

1 CROSS-EXAMINATION

2 BY MR. COOPER:

3 Q. Good afternoon, Mr. Archuleta.

4 A. Good afternoon.

5 Q. My name is Bob Cooper. I represent Billy
6 Garcia.

7 A. Nice to meet you.

8 Q. My pleasure. You have a number of times
9 today volunteered, without a question even being
10 asked, the fact that you're facing a death penalty
11 by all these guys because you're now an informant;
12 right?

13 A. Fact, yes.

14 Q. You were arrested on December 3, 2015, in
15 Tennessee; correct?

16 A. Yes. The 2nd.

17 Q. The 2nd. And then you eventually were
18 transported to New Mexico, you arrived here, you
19 were in custody with a number of individuals charged
20 in this case; correct?

21 A. Yes, sir.

22 Q. And you were initially charged in the
23 indictment, same indictment that they're charged
24 with; right?

25 A. Yes, sir.

1 Q. There has been nobody that has taken any
2 action against your life since you've returned to
3 New Mexico, has there?

4 A. I've been in protected custody.

5 Q. I guess that is no?

6 A. No.

7 Q. So yes or no?

8 A. No.

9 Q. And it's five after 3:00. We stop at 5:30
10 today, and I will take every last minute to talk to
11 you if you don't want to answer yes-or-no questions.
12 So if you want to answer my questions, you answer my
13 questions. Otherwise, we're going to make this long
14 and painful for you. Okay?

15 A. No problem.

16 MR. BECK: Objection, Your Honor. That's
17 threatening the witness.

18 THE COURT: Well, be careful. I'll let
19 you control the witness a little bit, but I think
20 that might have stepped over the line. So I
21 sustain. You can control it a little bit, but be
22 careful what you say.

23 MR. COOPER: I will, Your Honor.

24 BY MR. COOPER:

25 Q. So you're not planning to go back to

1 Albuquerque or even stay in New Mexico after this
2 trial is over, are you?

3 A. That wouldn't be smart, no.

4 Q. And you are not even planning to go back
5 to Tennessee, are you? In fact, you're planning to
6 go, I think, to Florida; you've got a job in Florida
7 someplace?

8 A. It's an option; right.

9 Q. An option. It's an option. You have a
10 lot of options, don't you, because the Government is
11 going to put you into the WITSEC program; right?

12 A. That's an option.

13 Q. That's an option; right?

14 A. Yes, sir.

15 Q. And when that happens, you're no longer
16 going to be known as Gerald Archuleta; right?

17 A. If that happens, that's correct.

18 Q. If that happens, that's correct. And they
19 will help you get rid of your tattoos. They will --
20 right?

21 A. I have no knowledge of that.

22 Q. They'll give you a new identity?

23 A. Okay.

24 Q. Right?

25 A. Right.

1 Q. They'll give you a new job, give you a new
2 house, they're going to buy you a car, they're going
3 to give you money, they're going to set you up.

4 A. Correct.

5 Q. In another location as a new person. And
6 so you're not really in fear of anybody, because
7 you're going to be in North Dakota or in North
8 Carolina or Pennsylvania, wherever, but you're going
9 to be someplace as Jimmie Gonzales.

10 A. Michigan.

11 Q. Michigan. Yeah. You could be in a lot of
12 different places under a new identity, and nobody is
13 ever going to know and nobody is ever going to find
14 you; right?

15 A. If I chose to go to the witness
16 protection, that would be correct.

17 Q. So you're really not facing a death
18 penalty from anybody, are you?

19 A. If they get their hands on me and get the
20 opportunity, yes, sir.

21 Q. That's not even a remote possibility, is
22 it?

23 A. What do you think this trial is about?
24 Have you seen the four murders that we're here for?
25 They kill people.

1 Q. It's a remote possibility?

2 A. Yeah. It's more than a possibility. It's
3 happened in the past. It will continue to happen.
4 The SNM will continue to operate well after I'm
5 gone, and I will always be a target as long as I'm
6 alive. What's so hard to accept about that?

7 Q. I don't know.

8 A. The SNM is a criminal group that
9 participates in criminal activity. And if you
10 inform on them, you're targeted for execution and
11 that's a fact.

12 Q. You were the biggest criminal of that
13 group for a long, long time, weren't you?

14 A. That's how it usually starts, yes.

15 Q. That's how it usually starts. So you ran
16 this organization from as early as 1998, I think is
17 what you testified to?

18 A. Something around there.

19 Q. Okay. From 1998 to 2011, you were the
20 jefe. You were the boss, weren't you?

21 A. I was one of them, yes.

22 Q. One of them. Let's go back for a bit. In
23 1998 you were brought in by Fernie Hernandez.
24 Fernie is the guy who continued to send you Suboxone
25 in Tennessee?

1 A. No.

2 Q. Who did that?

3 A. Vincent Garduno.

4 Q. Vincent Garduno and who else?

5 A. Vincent Garduno, maybe Jake Armijo.

6 Q. When did Jake last send you some?

7 A. I don't recall. Before I got arrested.

8 Q. But not --

9 A. While I was in Tennessee.

10 Q. Okay. And the first real work you did,
11 you testified, was when you stabbed Chaparro in the
12 neck; right?

13 A. That's the first time I stabbed somebody,
14 yes.

15 Q. When you got to New Mexico, you knew that
16 the FBI had filed this indictment against you, and
17 at that time it was like 24 other people; eventually
18 it got to about 40; right?

19 A. Yes, sir.

20 Q. And you also knew that there was another
21 indictment, the RICO case; right?

22 A. Yes.

23 Q. And that one was indicted April 21 -- or
24 filed April 21, 2016; correct?

25 A. Yes, sir.

1 Q. And some of the people that were charged
2 in this first indictment were also charged in the
3 second indictment; right?

4 A. Yes, sir.

5 Q. Pup, Dan Dan, other people; right?

6 A. Yes, sir.

7 Q. And the very first day you started talking
8 to the Government, you knew there was a possibility
9 that you would be included in this; right?

10 A. Yes, sir.

11 Q. I mean, you're a big dog and you were not
12 included, but for a very minor charge in the first
13 one; one that only subjects you to three years; and
14 then in the second one, you knew that you had done a
15 lot of work over a long, long, long time for the S,
16 and all of that work you had done would be a
17 separate overt act in a RICO conspiracy; right?

18 A. I suppose.

19 Q. And so we're going to talk about all of
20 these overt acts, all of these bits of work that
21 would have put you in here that would have given you
22 what would be a real death sentence, because --

23 A. No.

24 Q. Yes, I think so. So if you get convicted
25 in the RICO case, you're going to get a life

1 sentence. You'll never come out of the prison
2 except in a box. You know that, don't you?

3 A. Yes. I wouldn't live to be an old man in
4 prison.

5 Q. And likewise, had you been charged in the
6 Matthew Cavalier murder as one of the charges in the
7 VICAR case in this first indictment, where you were
8 only charged with the Julian Romero matter, if you
9 had been charged with that, you'd be looking at a
10 life sentence, and life sentence in the federal
11 system means no parole. You die, and that's when
12 you come out; right?

13 A. Right, yes. That's correct.

14 Q. So you made a decision to avoid coming out
15 of prison in a box. You made a decision that would
16 allow you to go get a nice new car and get a house,
17 courtesy of the federal government; a new identity
18 courtesy of the federal government; a new job
19 courtesy of the federal government; right?

20 A. I don't know about the new car, but --

21 Q. The rest of it is true; right? In the
22 WITSEC program?

23 A. I haven't been really explained what I
24 have coming to me if I were to take that option.

25 Q. So you know that in a RICO indictment, the

1 fact that you just joined the SNM Gang is an overt
2 act; right?

3 A. Yes, sir.

4 Q. The fact that while you're in custody of
5 New Mexico Corrections Department, if you assault an
6 inmate, that's an overt act; right?

7 A. Yes, sir.

8 Q. How many assaults do you think you
9 participated in yourself, or ordered assaults?

10 MR. BECK: Objection, asked and answered.

11 THE COURT: Sustained.

12 A. Do I answer or --

13 BY MR. COOPER:

14 Q. No.

15 THE COURT: I sustained the objection.

16 MR. COOPER: May I approach, Your Honor?

17 THE COURT: You may.

18 (The following proceedings were held at
19 the bench.)

20 MR. COOPER: I just started my
21 cross-examination. I haven't asked him how many
22 assaults --

23 THE COURT: That identical question, it
24 sounds like it's on the internet among the
25 defendants, was asked.

1 MR. BECKER: I think Billy Blackburn asked
2 the same question, 245.

3 MR. COOPER: And I don't have the right to
4 on behalf of Billy?

5 THE COURT: The same question has been
6 asked and answered. The evidence is out there.
7 I'll give a little leeway for you guys to, you know,
8 cover some ground. I think I've given a lot. But
9 just identical questions? Boy, we just went through
10 that.

11 MR. BURKE: It's not clear to me that just
12 because I ask a question that Billy Blackburn --

13 THE COURT: So we're going to ask the same
14 question seven times?

15 MR. BURKE: No, but what we do is, we sort
16 of plan our crosses, and we break them out, and just
17 because Billy or I would ask --

18 THE COURT: You've got to dress it up a
19 little better than that.

20 MR. COOPER: I will. Thank you.

21 (The following proceedings were held in
22 open court.)

23 THE COURT: Mr. Cooper.

24 BY MR. COOPER:

25 Q. So you know, Mr. Archuleta, that while you

1 were in custody of the New Mexico Corrections
2 Department, if you assault a corrections officer,
3 that could be an overt act that would bring you into
4 the conspiracy, the RICO conspiracy; correct?

5 A. I did not know that.

6 Q. Would you like to take a look at the RICO
7 indictment to see that that sort of conduct brings
8 you into a RICO conspiracy?

9 A. I'll take your word for it.

10 Q. Okay. Anytime that an SNM Gang member
11 possesses drugs for sale, that brings you into the
12 RICO conspiracy. Did you know that?

13 A. No, I didn't.

14 Q. You know if you possess a firearm or rob
15 somebody that brings you into the RICO conspiracy;
16 right?

17 A. I know you're in trouble, yes.

18 Q. And you know if you murder somebody, it
19 brings you into the RICO conspiracy; right?

20 A. Yes.

21 Q. And you know that if you conspire to
22 commit a murder, it brings you into the RICO
23 conspiracy; correct?

24 A. Yes.

25 Q. And every time that the tabla would meet

1 to talk about sanctions or consequences that they
2 were going to impose upon somebody, either a murder
3 or a beating of some sort, all of those things would
4 result in an action that would bring you into a RICO
5 conspiracy; right?

6 A. I suppose, yes.

7 Q. So when you took action against Eddie
8 Lopez to remove him from the line on Felipe's
9 orders, can you tell me what you did?

10 A. I stabbed him.

11 Q. Okay. That's something that brings you
12 into the RICO conspiracy, isn't it?

13 A. Yes, sir.

14 Q. Did he die?

15 A. No.

16 Q. Did you get charged for it?

17 A. No, sir.

18 Q. Did you get charged for stabbing Chaparro?

19 A. No, sir.

20 Q. Leroy Lucero. Do you know Leroy?

21 A. Yes.

22 Q. He was a member of the tabla at some
23 point, wasn't he?

24 A. No, sir.

25 Q. No?

1 A. Leroy Romero, no, sir, not while I was
2 around.

3 Q. What did you say? Willie Romero?

4 A. You said Leroy Lucero?

5 Q. Yeah.

6 A. He was not on the tabla, no.

7 Q. Why did you have a tabla?

8 A. So that there would be more than one
9 individual in the S making decisions.

10 Q. And the only time the tabla wasn't used
11 was if Angel was in custody or if Pup was in
12 custody; isn't that right?

13 A. Or if Billy, also. You have to include
14 him with him in the members.

15 Q. And Billy?

16 A. Billy Garcia.

17 Q. Okay. But the tabla was never -- Billy
18 was never a leader of the SNM after the tabla was
19 established. You're the one that established the
20 tabla; right?

21 A. Yes, I was the one that established the
22 tabla.

23 Q. So before, before you established the
24 tabla, the only people that had authority to act
25 without a tabla would have been Angel, and he did

1 that. Angel was above Billy; right?

2 A. They were in the same circle.

3 Q. In the same circle, but Angel was higher.

4 A. Not in my eyes. I fell under Angel, but
5 Billy was just as high as Angel.

6 Q. So who appointed you to fill his shoes?
7 Did Billy appoint you?

8 A. No, sir.

9 Q. Because he didn't have that power. He
10 wasn't high enough. It was Angel, wasn't it?

11 A. Billy Garcia never lost his power when the
12 tabla was put in place. Billy Garcia never lost his
13 influence, his position in the gang. Never. He was
14 always recognized as --

15 Q. As a leader?

16 A. -- as someone with a lot of authority till
17 we had our fallout over Julian.

18 Q. So when you had your fallout over Julian,
19 let me -- it was in 2001 when you ordered the hit on
20 Julian Romero; correct?

21 A. Around there, yes; correct.

22 Q. By ordering the hit on Julian Romero,
23 that's another act that brings you within the RICO
24 conspiracy; correct?

25 A. Correct.

1 Q. But you're not included in this RICO
2 conspiracy for this act, for the Eddie Lopez, for
3 the Chaparro, any of those things, are you?

4 A. No, sir.

5 Q. So we've heard a lot about the Julian/Styx
6 issue. And I think it's important to know when
7 Lilly and Julian started seeing each other. It was
8 in about September of 2000, wasn't it?

9 A. I don't know exactly. It was during the
10 time I was in jail facing the charge for the murder
11 of Matthew Cavalier, whatever month or year that
12 was.

13 Q. So Julian got out of custody September 7,
14 2000, and it was at that time where you gave Lilly a
15 kite. You wanted her to talk to Julian about
16 something?

17 A. That's correct.

18 Q. And you got out of custody February 12,
19 2001; right? That one time?

20 A. Yes.

21 Q. Okay. That's when you got discharged.
22 And at that point Julian had already started seeing
23 Lilly; right?

24 A. I do not believe so, no. When I was
25 convicted of the Matthew Cavalier case was when?

1 Can you tell me?

2 Q. But you know, don't you, that Julian and
3 Lilly went to Angel Munoz's birthday party,
4 Christmas party, in December of 2000?

5 A. Yes.

6 Q. So it was out in the open. They were
7 seeing each other, and they weren't ashamed to tell
8 anybody; right?

9 A. It wasn't out in the open. It was known
10 to Angel that Julian was supposed to be taking care
11 of this. So when they were seen together, it was
12 under the assumption when people seen it that they
13 were together because they were supposed to be
14 taking care of --

15 Q. How do you know that? How do you know
16 that it was under the assumption? You don't know
17 that, do you?

18 A. I know this.

19 Q. You know this? You know what people were
20 assuming? How do you know that?

21 A. I know Angel was assuming.

22 Q. You don't know that, because unless
23 it's --

24 A. We have discussions, so I know. Me and
25 Angel have had discussions, and if he had any idea

1 they were actually having an affair, instead of
2 being together to resume SNM activity, he would have
3 taken action on it.

4 Q. Angel just doesn't want to hurt you. He
5 didn't want you to know that he knew; right?

6 A. I don't know that to be true, no.

7 Q. And you don't know that it's not true,
8 either, do you?

9 A. I don't know that it is. I guess it's
10 possible.

11 Q. Angel's birthday is December 28; right?

12 A. I have no idea.

13 Q. Okay. You were never out -- well, you
14 didn't attend that birthday party, did you?

15 A. I was not out.

16 Q. But you heard that he was with her and you
17 weren't happy about that, were you?

18 A. When I found out that they were having an
19 affair, no, I wasn't happy with that.

20 Q. So at some point Matthew Cavalier is taken
21 into BCDC and you are at BCDC; right?

22 A. Yes, sir.

23 Q. And while you're there, you're with Shadow
24 and Rabbit and Paco? Who are they, again?

25 A. They're SNM Gang members.

1 Q. What are their names?

2 A. Francisco Villalobo. He's Paco. Roy
3 Martinez is Shadow, and Samuel Silva is Rabbit.

4 Q. So at that point in time, you're a leader
5 of the SNM; right?

6 A. Yes, sir.

7 Q. You happen to be at BCDC, and you I think
8 testified this morning that you planned and ordered
9 the hit on Mr. Cavalier; right?

10 A. There was a green light on Matthew
11 Cavalier, and I observed it.

12 Q. Okay. And that's an action that would
13 cause you to get into a RICO conspiracy; right?
14 Ordering a hit on him?

15 A. I don't know. I suppose. I was convicted
16 for something with the State having to do with that
17 murder, but I suppose anything is possible.

18 Q. How many people were on the level when
19 Matthew Cavalier arrived there?

20 A. There were four pods with -- I don't
21 know -- 12 rooms to a pod.

22 Q. And you were in one pod, and that one pod
23 is separated from the other three pods?

24 A. Yes, sir. It was an SNM pod.

25 Q. So there were 12 of you in your pod;

1 right?

2 A. Approximately. I don't know if all the
3 rooms were filled.

4 Q. Okay. But at the most, 12. And one of
5 them was Kelly Mercer?

6 A. Yes, sir.

7 Q. An SNM brother?

8 A. Yes, sir.

9 Q. And Kelly, you felt, was helping the
10 Government, helping law enforcement with their
11 investigation as to who conducted this murder;
12 correct?

13 A. Yes, sir.

14 Q. And at BCDC -- it's a six-story building
15 right across the street from the police station;
16 right?

17 A. Yes, sir.

18 Q. And in the jail, BCDC, you have long,
19 narrow windows where you can look out onto Roma and
20 see people walking across Roma to the police
21 station; right?

22 A. Yes, sir.

23 Q. And you guys saw Kelly Mercer being taken
24 to the police station?

25 A. It was reported to us, yes.

1 Q. So somebody saw him?

2 A. Yes, sir.

3 Q. So you gave Lilly a kite to take to Ernie
4 Estrada; right?

5 A. Yes, sir.

6 Q. And the kite basically was directing him
7 to take out Kelly Mercer; right?

8 A. Yes.

9 Q. And you wanted Kelly killed as soon as
10 possible; right?

11 A. Yes, sir.

12 Q. And you wanted him killed because you were
13 facing charges on that murder case that he was going
14 to be a witness on; right?

15 A. Yes.

16 Q. So you were trying to kill a witness;
17 right?

18 A. That's correct.

19 Q. Another action that would bring you into a
20 RICO conspiracy; correct?

21 A. Correct.

22 Q. Ernie Estrada was real close to you;
23 right?

24 A. Yes.

25 Q. He was one of your right-hand men?

1 A. Not a right-hand; he was a soldier of
2 mine.

3 Q. So Matthew Cavalier was killed August of
4 2000; is that right?

5 A. I don't know the date.

6 Q. Now, when your wife starts having an
7 affair with another man, is she disrespecting the S?

8 A. No, she's disrespecting me.

9 Q. She's disrespecting you. Now, when a man
10 has an affair with your wife, is he disrespecting
11 the S?

12 A. If he's from the S.

13 Q. If he's from the S?

14 A. He's disrespecting me, and I am from the
15 S.

16 Q. And if the man is not from the S, is it
17 okay to kill him?

18 A. In the SNM way of looking at things, yes.

19 Q. Okay.

20 A. That's what we decided.

21 Q. Even if it was some man that was not an
22 SNM member, if he has an affair with your wife, you
23 kill him?

24 A. The SNM has killed for less than that,
25 yes. Welcome to the SNM.

1 MR. COOPER: Your Honor, I'd move to
2 strike that?

3 THE COURT: I'll strike that. Just answer
4 the questions that Mr. Blackburn (sic) puts to you
5 and no more.

6 MR. COOPER: Judge, don't do that.

7 THE COURT: I'm sorry.

8 MR. COOPER: You cannot do that.

9 THE COURT: I cannot think it, but I said
10 it. I apologize.

11 MR. COOPER: If that's the case, we're
12 going till like 8:00.

13 THE COURT: Mr. Cooper.

14 MR. COOPER: Thank you, Judge.

15 BY MR. COOPER:

16 Q. That green light was approved by Angel
17 Munoz; right?

18 A. What green light?

19 Q. I'm sorry. Let me back up. I'm thinking
20 about Julian Romero, but I forgot to tell you what I
21 was thinking. How come you weren't able to know
22 what I was thinking?

23 A. I was thinking Julian Romero also.

24 Q. Okay. So anyway, Julian Romero -- you
25 have a green light on Julian. Angel has to approve

1 that?

2 A. Yes, sir.

3 Q. At the time Angel approved that, was he on
4 the streets or was he in prison?

5 A. He was on the streets.

6 Q. So Angel, as long as he's alive, he's got
7 power over everybody in the S; right? He's the mero
8 mero. He's the jefe. He's the big dog; right?

9 A. He has power over most.

10 Q. Okay. So if he tells somebody that they
11 ought to be hit, then it usually happens; right?

12 A. Yes, sir.

13 Q. Did you do much drug dealing to the S?

14 A. I have.

15 Q. Okay. And how many times do you think
16 you've sold drugs for the S?

17 A. I don't know.

18 Q. Too many to count; right?

19 A. Too many, yes.

20 Q. And every time you have sold drugs for the
21 S, each one of those is another action that brings
22 you into the RICO conspiracy; right?

23 A. Yes, sir.

24 Q. And every time that you send money back
25 into the prison or you send drugs back into the

1 prison for the brothers, if you're on the streets,
2 that is another action that bringing you into a RICO
3 conspiracy; correct?

4 A. Yes, sir.

5 Q. So whether you're inside and you're
6 putting money together, having a brother bring the
7 drugs in, or whether you're on the outside sending
8 drugs in, either way it's trafficking and either way
9 it's an action that would bring you into a RICO
10 conspiracy; correct?

11 A. That's correct.

12 Q. When you shot Baby Zack at the methadone
13 clinic, that's an act that would bring you into the
14 RICO conspiracy; correct?

15 A. That's correct.

16 Q. Did you have any discussions with the FBI
17 prior to December 2, 2015, when you were arrested in
18 Tennessee?

19 A. No, sir.

20 Q. Did you have any idea that you were about
21 to be arrested?

22 A. No, sir.

23 Q. You had never heard that there was a RICO
24 investigation or VICAR investigation going on?

25 A. No, sir.

1 Q. So on the morning of your arrest, a little
2 after 5:00 in the morning, a pickup leaves your work
3 and drives to a parking lot, sits there for 10, 15
4 minutes, and then drives to another parking lot, and
5 you're under surveillance. Eventually, after 30, 40
6 minutes, the officers descend upon this pickup
7 truck, and you are the passenger in the pickup
8 truck. What was going on that morning? Were you in
9 the midst of a drug deal?

10 A. I was on my way to work.

11 Q. You were on your way to work?

12 A. Yeah.

13 Q. But you were seen at the -- at work, and
14 then to another parking lot, and then another
15 parking lot, and then you were --

16 A. We noticed somebody following us, and so
17 we went to a parking lot where that same vehicle
18 showed up again, and that's what was going on. Once
19 he followed us to the third parking lot, we were
20 well aware that we were being followed.

21 Q. Okay. So it wasn't a drug deal?

22 A. It was not a drug deal. I was in a
23 company truck with my foreman.

24 Q. But why do you leave your work location?
25 Were you on your way to a job or -- you said you

1 were on your way to work.

2 A. Right. Well, we had left the yard after
3 picking up the material that we needed for the day.
4 And from there, before jumping on the highway -- we
5 stopped, I believe. We stopped at Arby's or
6 something like that. The first -- the place we
7 stopped at when we noticed somebody staring at us,
8 so we went to a different parking lot. And that
9 caught our attention before we were able to get out
10 of the truck and get breakfast at Arby's, before we
11 hit the highway.

12 Q. Let me talk to you for a minute about
13 Darren White. Who is Darren White?

14 A. Darren White is an elected sheriff.

15 Q. In Bernalillo County; right?

16 A. In Bernalillo County.

17 Q. And Darren White used your picture, a
18 photograph of you and your name, talking about how
19 you're one of the baddest guys around, and that's
20 why the legislature ought to pass the three strikes
21 law; right?

22 A. That's correct.

23 Q. And he used your likeness in his campaign
24 to do that; right?

25 A. Yes, sir.

1 Q. You testified earlier today that you kind
2 of liked that, because it gave you some cred on the
3 streets with all the other gangsters. Look, this is
4 a guy that's willing to hit the sheriff.

5 A. That's correct.

6 Q. So why is that not disrespect?

7 A. Towards who?

8 Q. Towards you; when he does that towards
9 you.

10 A. He was adding to my reputation, as far as
11 I'm concerned, and that wasn't very disrespectful at
12 all. He was doing his job.

13 Q. And it didn't upset you?

14 A. No, sir.

15 Q. Yet you hired Ray Roberts, an inmate at
16 the New Mexico Department of Corrections facility
17 who was then on the streets, to hit Darren White,
18 didn't you?

19 A. That's not correct.

20 Q. Mr. Archuleta, isn't it true that FBI
21 Agent Sonya Chavez targeted you, Jacob Armijo, and
22 Ray Roberts with regard to the conspiracy to kill
23 Darren White?

24 A. I don't know that to be factual. I don't
25 know who Sonya is. I know I was under

1 investigation, and nothing ever came about it.

2 Q. She was an FBI agent who was doing the
3 investigation at that point in time; right?

4 A. I don't know who was doing the
5 investigation. I was never questioned.

6 Q. You know Michael Astorga, don't you?

7 A. I do.

8 Q. And Michael Astorga was an SNM member?

9 A. He was.

10 Q. Michael Astorga was somebody that Darren
11 White really went after with a vengeance, didn't he?

12 A. Yes, sir. He was wanted for a murder of
13 another individual; correct.

14 Q. And he publicly denounced Astorga through
15 the media and it angered many of the SNM people,
16 didn't it?

17 A. I don't think it angered anybody.

18 Q. So before you could hit Darren White, you
19 got arrested, and then you were incarcerated again;
20 right?

21 A. I was never trying to hit Darren White.
22 I've taken responsibility for all kinds of things,
23 and if that was in fact true, I would take
24 responsibility for that also.

25 Q. You just didn't have the money; you

1 weren't strong enough to pay Ray Roberts to get the
2 job done; right?

3 A. That's nonsense. No.

4 Q. You were strong enough to pay?

5 A. No -- repeat the question. I'm just
6 saying your allegation is nonsense. But what was
7 the question?

8 Q. You weren't strong enough to pay to get
9 the job done, were you?

10 A. I didn't have the money, and I didn't want
11 to get the job done. Darren White was never a
12 target of the SNM, and that's a fact; which is why
13 nothing amounted out of their thorough
14 investigation. Otherwise, you would have something
15 in that pile of papers you love.

16 Q. Do you remember writing a letter to
17 Frankie G telling him, "Fuck Darren White"?

18 A. No, I don't, but I may have said that.

19 Q. Okay. And you were laughing because the
20 law didn't pass?

21 A. New Mexico does have a three strikes law.
22 It covers --

23 Q. Now they do.

24 A. Well, they did at that time, too. They
25 were just trying to add -- to revise it.

1 Q. So earlier you testified that the
2 communications that people had seen about you
3 wanting to hit Darren White was really a
4 communication about the Baby Zack hit; is that
5 right? Is that what I heard?

6 A. I didn't understand the question.

7 Q. So earlier you said that, "No, I didn't
8 hit Darren White; I put out a hit on somebody
9 else" --

10 A. Yes.

11 Q. -- "and they mixed up the details."

12 A. That's correct.

13 Q. Tell me about the details of that other
14 hit.

15 A. The details were: After the methadone
16 incident, I was in the county jail with Lino
17 Castillo, who was about to get out of jail. He
18 pushed a lot of drugs. And knowing that he was
19 about to get out of jail, I targeted Baby Zack. The
20 plan was --

21 Q. Let me stop you right there. Targeted him
22 for a hit? To kill him?

23 A. Targeted Baby Zack, yes.

24 Q. Another act that would bring you into the
25 RICO conspiracy?

1 A. Another act that would bring me into the
2 conspiracy, yes, sir.

3 Q. So go ahead. So Lino was getting out --

4 A. The plan was to target Baby Zack for
5 attempting to kill me at the methadone clinic on
6 orders of Billy Garcia. The plan was that we would
7 have Jake, who is a fellow member of the SNM who was
8 with us in the pod -- he had no way of bonding out,
9 and me and Lino --

10 Q. Who?

11 A. Jake Armijo. He had no way of bonding
12 out. He had a bond, and me and Lino Castillo got
13 together and agreed that if he bonded Jake out, that
14 Jake would hit Baby Zack.

15 Q. Okay. Let me stop you there. So how were
16 those details similar to the details of, "Let's hit
17 Darren White, the Bernalillo County sheriff"?

18 A. They intercepted some kind of
19 communications between me and Lino following up on
20 the hit on Baby Zack. And when details came out
21 about the Darren White incident, they were the exact
22 same as the details in Baby Zack. It was alleged or
23 being investigated that I put a hit on Darren White
24 and that an individual by the name of Lino Castillo
25 bonded out an individual by the name of Jake Armijo

1 and he was to hit Darren White.

2 I don't know where they got Darren White
3 from, but that's how the details were exact. So
4 they were confusing the details on the hit on Baby
5 Zack from a hit on Darren White, which never
6 existed; and that's why I say that that's how it was
7 confused. The details were exactly the same.

8 Q. So when was the Baby Zack incident?

9 A. I don't know. I was convicted in 2008, so
10 it maybe happened late 2007 or early 2008.

11 Q. Okay. But it is September of 2009 when
12 the Darren White hit is being investigated, so it
13 doesn't sound like the same details, does it?

14 A. It sounds like it's the exact same
15 details.

16 Q. A hit on Darren White would also bring you
17 into the RICO conspiracy, wouldn't it?

18 A. Yes, it would.

19 Q. So you're no longer an SNM member?

20 A. No, sir.

21 Q. So you've changed?

22 A. I can't say I've changed. I can say that
23 I am no longer an SNM Gang member.

24 Q. You were a very violent SNM Gang member,
25 weren't you?

1 A. That was expected of me, yes.

2 Q. Or from 1998 through 2011 you were a very
3 violent man, weren't you?

4 A. Very violent, active SNM Gang member, yes.

5 Q. Yes. And have you changed that part of
6 your being?

7 A. I think so. When you threatened me
8 earlier, I didn't jump up and try to slap you
9 around.

10 Q. Thank you for not doing that.

11 A. You're welcome.

12 Q. You're never going to change, are you?

13 A. I'm making an effort. It starts with
14 effort. And I've -- hopefully I can change.

15 Q. No, you don't hope you're going to change.

16 A. Why would I want to spend the rest of my
17 life in prison and being active in any of any kind
18 of gang, whether it's SNM or not? The end result
19 is: You end up dead, killed, or life in prison, and
20 that's a fact. It may have took me till I was 40
21 years old to get tired of this life and want
22 something better for myself, but that's just the way
23 it is. I wanted something better for myself, and I
24 don't see how that's so hard for you to understand.

25 Q. It's hard because on April 10th, 2017, you

1 had a phone conversation with Sammy Griego. Do you
2 remember that?

3 A. April 10th, what year?

4 Q. 2017.

5 A. Who did I have a conversation with?

6 Q. Sammy Griego.

7 A. That's not correct.

8 MR. COOPER: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. COOPER:

11 Q. So I don't think it was April 10th, 2017.

12 The call was April 24, 2015. Do you remember that
13 call?

14 A. No, sir.

15 MR. COOPER: May I approach, Your Honor?

16 A. After my arrest, I was not -- never in
17 contact with Sammy Griego.

18 THE COURT: You may.

19 MR. COOPER: Thank you, Judge.

20 BY MR. COOPER:

21 Q. So Mr. Archuleta, have you had occasion to
22 review this document?

23 A. The first portion of it, yes.

24 Q. Okay. And didn't you tell Sammy Griego
25 that "I'll always be who I am. I'll never change

1 who I am"?

2 A. I may have told him that, but the issue
3 was --

4 Q. Do you want to look again?

5 A. Bring it over. The issue is: We have to
6 correct you. The call was made prior to my arrest,
7 not in 2017. In 2017 I was already cooperating.
8 This is prior to my arrest. You need to at least
9 get that right so that you'll understand why I
10 talked the way I did before I started cooperating.

11 Q. So after I showed it to Mr. Beck, he
12 pointed out that it probably wasn't April 10th,
13 2017. I came back up here and I said I stand
14 corrected; it's --

15 A. I apologize.

16 Q. -- it's April 24, 2015.

17 A. That's not correct. That's still way
18 after my arrest. My arrest. You're exactly right,
19 I was arrested in 2015.

20 Q. So you want to look at it?

21 A. No, I remember that conversation now. It
22 was the year that confused me, and that's all.

23 Q. So Mr. Archuleta, the -- what I have shown
24 you is a transcript from Russin Reporting, LLC; it's
25 a court reporting company in Albuquerque, and they

1 have transcribed a phone conversation, and it
2 appears that it's a phone conversation, I believe,
3 from a time when you were in custody --

4 A. No, sir.

5 Q. -- someplace.

6 A. No, sir. I'll tell you exactly where I
7 was. I was in Tennessee on a roof, working, when I
8 got a call from Sammy Griego, who was working for
9 the FBI, so it was being recorded.

10 Q. That's correct.

11 A. I was not arrested yet. You're saying
12 that happened in April 2015? I was arrested --

13 Q. In December.

14 A. -- in December. So I was not locked up.
15 I was a free man in Tennessee when this call was
16 made.

17 Q. This is when Sammy Griego was working for
18 the FBI, he had a recording, and he placed the call
19 to you; right?

20 A. Yes, sir.

21 Q. Okay. And -- but that was the month,
22 correct? 4/24/2015. I'm not saying you were in
23 jail at that time. I'm saying --

24 A. You said that earlier.

25 Q. I'm saying the date of the conversation;

1 correct?

2 A. Yes, sir.

3 Q. And as recent as that point in time you
4 said you're never changing?

5 A. Okay. But I was in Tennessee, trying to
6 make a change.

7 MR. COOPER: May I have a moment, Your
8 Honor?

9 THE COURT: You may.

10 BY MR. COOPER:

11 Q. You've known Billy Garcia for a long, long
12 time, haven't you?

13 A. Since 1988, '89.

14 Q. And when you first met Billy Garcia, you
15 guys didn't like each other, did you?

16 A. That's not true at all. I didn't know
17 Billy Garcia when I met him. He was calling the
18 shots for the SNM, and --

19 Q. But the question is: You didn't like
20 Billy Garcia.

21 A. That's not correct.

22 Q. Okay. Do you remember being out in the
23 yard, you guys were lifting weights or something,
24 and there was a little dustup, you guys kind of
25 argued a little bit?

1 A. That's not correct.

2 Q. You don't remember that?

3 A. That didn't happen, or I would have ended
4 up.

5 Q. Billy Garcia was real close to Julian
6 Romero; right?

7 A. That's correct.

8 Q. I mean, they were as close as real
9 brothers; not just SNM brothers, but they were
10 pretty tight; right?

11 A. I suppose.

12 Q. Okay. But you weren't close to either of
13 them like that, were you?

14 A. At that time, no.

15 Q. Or anytime.

16 A. No, you're right.

17 Q. You put a hit on Julian, and you also were
18 not happy with anybody who was from Barelvas, because
19 Julian was from Barelvas; right?

20 A. Correct. There was someone to keep an eye
21 on, if you were from Barelvas. I don't know about
22 not being happy with him. Somebody to keep an eye
23 on.

24 Q. And you didn't like them because they were
25 with Billy; right -- or with Julian, excuse me?

1 A. I kept an eye on them, because, yes,
2 Julian Romero was their big homie from Barelas.

3 Q. And anybody who was on Julian's side, they
4 were against you, is what you felt; right?

5 A. Yes, sir.

6 Q. If you're not with me, you're against me?

7 A. That's correct.

8 Q. You liked saying that, don't you?

9 A. It was a fact.

10 Q. And so you would do what you could to hurt
11 those guys that weren't with you, wouldn't you?

12 A. If it became clear that they were with
13 Julian, yes.

14 Q. If it was clear what?

15 A. If it became clear that they rode with
16 Julian, yes. There were some that acknowledged that
17 he did, in fact, fuck up, and they weren't on his
18 side. He violated a code of conduct within the S,
19 and at some point it became so obvious that even
20 guys from Barelas didn't have nothing good to say
21 about him. But those that continued to want to kick
22 it with Julian, even after it was out in the open in
23 regards to his violation, they were targeted.

24 Q. And you would do whatever you could to
25 take care of them; right?

1 A. Yes, I would.

2 Q. You testified earlier on direct
3 examination, I think, that you really didn't care
4 about Julian Romero anymore, and you weren't doing
5 anything to make the hit happen?

6 A. That's correct.

7 Q. Remember when Sammy Griego called you?
8 You guys were talking about where Julian was; right?

9 A. I don't recall.

10 MR. COOPER: May I approach the witness,
11 Your Honor?

12 THE COURT: You may.

13 BY MR. COOPER:

14 Q. So Mr. Archuleta, you've now had occasion
15 to review the transcript of the telephone
16 conversation between you and Sammy Griego, and you
17 know that you did have discussions about the
18 whereabouts of Julian Romero; right?

19 A. His name came up in conversation according
20 to that, yes.

21 Q. Yes, it did come up in conversation. So
22 you haven't just forgotten about it; you're
23 concerned about where he is and in large part I
24 suspect that's because you want the hit to happen?

25 A. I wouldn't mind.

1 Q. Okay, Your Honor, may we approach?

2 THE COURT: You may.

3 (The following proceedings were held at
4 the bench.)

5 MR. COOPER: I understand that Mr. Castle
6 has just filed a motion with regard to the
7 admissibility of the priors, and I don't know when
8 we can --

9 THE COURT: Well, I think I pretty much
10 decided we better assume. This is trial work. We
11 better assume that I made my ruling. I thought
12 about it.

13 MR. COOPER: Okay. Thank you.

14 (The following proceedings were held in
15 open court.)

16 THE COURT: Mr. Cooper.

17 MR. COOPER: Mr. Archuleta, thank you. I
18 have no further questions.

19 THE WITNESS: Have a good day.

20 MR. COOPER: You too.

21 THE COURT: Thank you, Mr. Cooper.

22 Mr. Roberts, Ms. Torraco, anything? All
23 right.

24 Mr. Beck, do you have redirect?

25 MR. BECK: I do, Your Honor. Thank you.

1 REDIRECT EXAMINATION

2 BY MR. BECK:

3 Q. Mr. Archuleta, Mr. Shattuck asked you
4 about Allen Patterson. And if I understand, you do
5 not -- at least you did not know of an SNM Gang
6 member named Allen Patterson; is that right?

7 A. That's correct.

8 Q. Did you know an SNM Gang member named
9 Trigger?

10 A. I heard the name Trigger, who was an SNM
11 brother. I wasn't aware that his name was Allen
12 Patterson.

13 Q. You've been asked a lot about all of the
14 SNM assaults and crimes that you either participated
15 in or ordered as an SNM member. Do you remember
16 those?

17 A. Yes, sir.

18 Q. Aside from the Matthew Cavalier murder and
19 the Baby Zack -- the Baby Zack hit at the methadone
20 clinic, were any of those charged -- were you
21 charged with any of those by the State of New
22 Mexico?

23 A. I was charged with the Cavalier case and
24 the Baby Zack case by the State of New Mexico.

25 Q. Any others? Of all the SNM crimes, any

1 others, except for those two?

2 A. No, sir.

3 Q. You talked about with Mr. Cooper just a
4 couple minutes ago about Billy being recognized as
5 an authority until the fallout with Julian Romero.
6 Do you remember that?

7 A. Yes, sir.

8 Q. Before -- well, you also said big homie a
9 couple of times. What's a big homie?

10 A. A big homie is someone that's an older --
11 he's older, he's more influential than you, he's
12 your big homie. He outranks you.

13 Q. And before the incident with Julian
14 Romero, would Billy Garcia have been your big homie?

15 MR. COOPER: Objection, leading.

16 THE COURT: Don't lead.

17 BY MR. BECK:

18 Q. What would Billy Garcia's relationship
19 with you in the SNM have been before the fallout
20 with Julian Romero?

21 A. It's not "would have been." He was my big
22 homie. He was someone that I looked at as my -- he
23 carried more rank than me, somebody that's been
24 around longer than me. Although I had a position
25 from Angel Munoz that was given to me, I've always

1 recognized Billy Garcia as one of my superiors.

2 Q. Mr. Cooper also asked you a lot about the
3 incident with Baby Zack. Do you remember that?

4 A. Yes, sir.

5 Q. What did Baby Zack say to you before he
6 tried to shoot you at the methadone clinic?

7 A. He accused me of messing around with or
8 starting shit --

9 MR. COOPER: Hearsay, Your Honor.

10 A. -- with Billy Garcia.

11 THE COURT: I think you're getting into
12 hearsay. Sustained.

13 MR. BECK: Okay.

14 BY MR. BECK:

15 Q. Did you know Baby Zack before the incident
16 at the methadone clinic?

17 A. No, sir.

18 Q. And afterwards, what did you know about
19 Baby Zack?

20 A. I knew that he was a brother, he was a
21 brother in the SNM, and he was also Billy Garcia's
22 nephew.

23 Q. And then the April 24, 2015, call with
24 Sammy G. Was that before or after you started
25 cooperating with the Government?

1 A. That was before.

2 Q. And did you tell other SNM members, before
3 you started cooperating with the Government, that
4 you were no longer an SNM member?

5 A. Not in them terms. I was more retired
6 than no longer; I was --

7 Q. You were asked about calling off the
8 Julian Romero hit a couple of times. Do you
9 remember that question?

10 A. Yes, sir.

11 Q. Are you in a position to call off the
12 Julian Romero hit?

13 A. Since the day I started cooperating, I am
14 no longer in the position to call anything for the
15 S. I am now forever a lifelong target of the S.

16 THE COURT: Are you about to wrap up,
17 Mr. Beck?

18 MR. BECK: A couple more questions, Your
19 Honor.

20 BY MR. BECK:

21 Q. You were asked about -- by Mr. Blackburn
22 about rehearsing for trial and us reminding you that
23 you didn't say anything about anyone before that
24 point. Do you remember that line of questioning
25 from Mr. Blackburn?

1 A. Yes, sir.

2 Q. And I think -- do you remember you got the
3 tablets in about the summer of 2016?

4 A. I don't know exactly the date, but I
5 remember exactly when they gave us the tablet, while
6 we were in L pod, I believe, at the North facility.

7 Q. Was that around August of 2016 or
8 September 2016?

9 A. To be honest, I wouldn't know. You would
10 have more information as to when they were issued to
11 us, I would say.

12 Q. Fair enough. And I think you saw -- did
13 you plead guilty in June of 2016?

14 A. Yes.

15 Q. Did you tell the FBI about -- do you
16 remember telling the FBI about your conversation
17 with Arturo Garcia, and the order to kill Sanchez,
18 and the paperwork going down with Ben Clark -- or
19 the paperwork delivered with Benjamin Clark in
20 January of 2016, before that?

21 A. I don't know exactly what date it was, but
22 I remember discussing that conversation.

23 Q. Okay. Would looking at the report help
24 refresh your recollection?

25 A. Yeah.

1 MR. BECK: May I approach, Your Honor?

2 THE COURT: No. Why don't you bring your
3 redirect to a close?

4 MR. BECK: Okay.

5 BY MR. BECK:

6 Q. And so is January 2016 before June of
7 2016?

8 A. Repeat the question.

9 Q. Is January 2016 before June of 2016?

10 A. Yes.

11 Q. And then I think you were asked by Mr.
12 Burke whether you were happy to give statements
13 about Troup because you were only a few months from
14 getting out. Do you remember that?

15 A. Yes.

16 Q. In January of 2016, did you also -- over
17 two years ago, did you also tell the FBI about
18 Edward Troup admitting his participation in the
19 Freddie Sanchez murder to the FBI?

20 A. Yes, I did.

21 MR. BECK: Nothing further, Your Honor.

22 THE COURT: Thank you, Mr. Beck.

23 Let's take a break. And I need to maybe
24 talk to the lawyers just a little bit, so it may be
25 a little bit longer break. We'll be in recess about

1 15 minutes. All rise.

2 (The jury left the courtroom.)

3 THE COURT: All right. Everyone be
4 seated. The issues are kind of stacking up here.
5 Let's take -- first, I want to try to get this
6 instruction out of the way to the jury that's been
7 hanging around a little too long.

8 In light of Mr. Castle's reaction to my
9 proposal, I think an instruction modeled on the
10 United States' proposal, but I'll cast it in passive
11 voice to omit Mr. Castle's name. Here's what I
12 propose to give and kind of get him close to this
13 being nonnegotiable. So kind of the final word on
14 this. "On Tuesday, Frederico Munoz was asked if he
15 had been diagnosed with antisocial personality
16 disorder and was psychopathic. And those questions
17 are being stricken from the record as improper. You
18 should not consider anything about that line of
19 questioning in your deliberations."

20 Can you live with that, Mr. Castle?

21 MR. CASTLE: My previous objection. I
22 have no further objections, if the Court
23 understands.

24 THE COURT: Okay. Well, you know, Mr.
25 Castle, you told me that, boy, you wanted to clear

1 it up, you felt bad about it, and I've given you
2 every option in the world, and nothing seems to
3 work. I've asked you to draft one, and you don't
4 draft it. I don't know what you want.

5 MR. CASTLE: Your Honor --

6 THE COURT: No, you made your -- can you
7 live with that, Ms. Armijo?

8 MS. ARMIJO: Yes, Your Honor. Thank you.

9 THE COURT: That's what they're going to
10 get.

11 MR. CASTLE: Can I ask for a similar one
12 for the Government's misstatement to the jury?

13 THE COURT: No, overruled. You all beat
14 that to a drum in cross-examination, so there is no
15 reason for anything to be done with that one,
16 because y'all ripped the Government, all seven of
17 you, just about, on that in cross-examination.
18 That's what cross-examination is for in that
19 situation.

20 I thought about this Cupit situation. I
21 think the evidence is just being offered for
22 enterprise. He's just another enterprise witness.
23 I've continued to encourage the Government to not
24 call enterprise. I said last week we were done with
25 those, this sounds like just another one.

1 Consequently, I'm going to sustain Mr. Solis'
2 objection and Mr. Cupit will not testify.

3 All right. Let me take this brief back.
4 It looks to me like Mr. Castle is not arguing with
5 my application of 609B or my understanding of the
6 law. He's instead challenging the facts. So let me
7 go study this, and get those facts in my head.

8 We'll be in recess for 15 minutes.

9 (The Court stood in recess.)

10 THE COURT: Let's go on the record. I
11 think that all the defendants are in the courtroom,
12 and all the -- each of the defendants has an
13 attorney.

14 Like I said, it looks like Mr. Castle is
15 not challenging the legal determination but the
16 facts of this case, and it seems to me that if the
17 facts are as Mr. Castle has outlined -- and I
18 understand that the Government doesn't have a
19 position on whether the facts are correct or not --
20 it seems to me that he then served time on some
21 combination of the prior sentence and the probation
22 and the parole, if I understand the situation, up
23 through 2011, which would put it within the 10-year
24 period. So I haven't been able to research that
25 enough, but that seems to me to make sense. And so

1 unless the Government has some problem with it, what
2 I would propose is to give you a few minutes more in
3 redirect to bring these out, and then let the
4 defendants have some of their time in cross to do
5 what they want.

6 I think the ruling I made earlier about
7 once the conviction is brought in still stands; we
8 can't go into the facts, but they haven't been
9 presented for any purpose other than the
10 truthfulness of it.

11 But -- so that's what I propose. All
12 right. Ready to go?

13 MR. BECK: That sounds like a prudent,
14 course, Your Honor.

15 THE COURT: All right. All rise.

16 (The jury entered the courtroom.)

17 THE COURT: All right. Everyone be
18 seated.

19 On Tuesday, Frederico Munoz was asked if
20 he had been diagnosed with antisocial personality
21 disorder and psychopathy. Those questions I'm going
22 to strike from the record. I've determined that
23 they're improper, so I'm striking them from the
24 record. You should not consider anything about that
25 line of questioning in your deliberations.

1 All right. Mr. Archuleta, I remind you
2 that you're still under oath.

3 And Mr. Beck, do you have a few more
4 questions for Mr. Archuleta?

5 MR. BECK: I do, Your Honor. The United
6 States at this time moves to admit Government's
7 Exhibit 628.

8 THE COURT: Any objection? Not seeing or
9 hearing any objection, Government's Exhibit 628 will
10 be admitted into evidence.

11 (Government Exhibit 628 admitted.)

12 BY MR. BECK:

13 Q. Mr. Archuleta, Mr. Cooper asked you about
14 the three strikes law and Darren White. Do you
15 remember that?

16 A. Yes, sir.

17 Q. And was it your understanding that
18 Mr. White made you out to be sort of the poster boy
19 for that law?

20 A. Yes, sir.

21 Q. We talked about Matthew Cavalier. Were
22 you also -- did you also plead guilty to two other
23 homicides?

24 A. Prior to Matthew?

25 Q. Prior to Matthew Cavalier.

1 A. I pled guilty to involuntary manslaughter
2 and conspiracy to second-degree murder.

3 Q. And was the involuntary manslaughter in
4 1987?

5 A. Yes, sir.

6 Q. Did you shoot your cousin accidentally?

7 A. Yes, sir.

8 Q. And the second-degree murder -- was that
9 in 1988?

10 A. Yes, sir.

11 Q. And was that when you strangled your wife?

12 A. Yes, sir.

13 Q. And so were those two convictions and the
14 Matthew Cavalier conspiracy to murder -- were those
15 the three strikes that made you the poster boy for
16 "Three strikes you're out"?

17 A. Yes, sir.

18 MR. BECK: May I have a moment, Your
19 Honor?

20 THE COURT: You may.

21 MR. BECK: No further questions.

22 THE COURT: Mr. Lahann, did you have
23 questions?

24 MR. LAHANN: I did.
25

1 CROSS-EXAMINATION

2 BY MR. LAHANN:

3 Q. Mr. Archuleta, you're aware that there is
4 an admitted validated SNM member named Trigger, and
5 his name is Jason Wright, isn't it?

6 A. I'm not familiar.

7 Q. You don't know Jason Wright from
8 Albuquerque?

9 A. I know that there's a few Triggers.

10 MR. LAHANN: Thank you.

11 THE COURT: Thank you, Mr. Lahann.

12 Mr. Blackburn?

13 RECROSS-EXAMINATION

14 BY MR. BLACKBURN:

15 Q. Mr. Archuleta, let me ask you about the
16 1997 involuntary manslaughter that Mr. Beck was
17 asking you about. You said that that dealt with a
18 situation where you shot your cousin; is that right?

19 A. In 1987.

20 Q. 1987, I'm sorry. Where you shot your
21 cousin?

22 A. Yes.

23 Q. And had you -- it was a shotgun, was it
24 not?

25 A. Yes, sir.

1 Q. And you had put the shotgun up to your
2 head, had you not?

3 MR. BECK: Objection.

4 THE COURT: Sustained.

5 BY MR. BLACKBURN:

6 Q. Let me ask you about the second-degree
7 murder case that involved -- the second case
8 involved the situation with your wife. Is that what
9 I heard him say?

10 A. Yes, sir.

11 Q. And that was a second-degree murder case;
12 is that right?

13 A. Yes, sir.

14 Q. That was in Albuquerque; is that right?

15 A. Yes.

16 Q. And did that involve a gun?

17 MR. BECK: Objection.

18 THE COURT: Sustained.

19 BY MR. BLACKBURN:

20 Q. How much time did you get on the
21 involuntary manslaughter conviction?

22 A. Eighteen months.

23 Q. And how old were you at the time?

24 A. 18 or 19.

25 Q. All right. And did you go to jail on

1 that?

2 A. Yes, sir.

3 Q. What jail did you go to?

4 A. I served my 18 months in Los Lunas
5 Correctional Facility.

6 Q. And as a result of that particular
7 conviction, you were in Los Lunas; is that right?

8 A. Yes, sir.

9 Q. And as a result of that particular
10 conviction, because you were in Los Lunas, New
11 Mexico, were you buying drugs or purchasing drugs
12 from a guard down there at that prison?

13 A. I was not purchasing drugs from a guard.

14 Q. Okay. Were you sending drugs to -- were
15 you using a guard, a correctional officer, to take
16 drugs to your residence or to someone that you knew?

17 A. I was using a guard to bring in drugs.

18 Q. To bring in drugs.

19 A. Yes.

20 Q. And was that person getting the drugs from
21 your wife?

22 A. Yes, sir.

23 Q. And how old was your wife at the time?

24 A. She was 18. I was 19, I believe.

25 Q. And did you believe that she was having an

1 affair with him?

2 A. At that time, no.

3 Q. Did you find out that she had an affair
4 with him?

5 A. Later on, I found out that she was having
6 an affair.

7 Q. And is that what related to the
8 second-degree murder conviction?

9 MR. BECK: Objection under 609, Your
10 Honor.

11 THE COURT: Well, these are just during
12 the time that he was at the pen; correct? That's
13 all this is? It's not going into the facts of the
14 underlying conviction?

15 MR. BECK: I think the last question --

16 THE COURT: The last question did? Let's
17 stop there then.

18 BY MR. BLACKBURN:

19 Q. And as a result of the second-degree
20 murder conviction as it relates to your wife, how
21 much time did you get on that conviction?

22 A. Sixteen years.

23 Q. All right. And had you finished serving
24 your time on the involuntary manslaughter case?

25 A. I believe so.

1 Q. And on the -- but you violated your
2 probation, did you not, as it relates to the
3 situation with your wife; is that correct?

4 A. I don't understand the question.

5 Q. Let me back up. So the second-degree
6 murder case that you received in Albuquerque that
7 you got the 16 years for -- is that what led you
8 again to go back to the Penitentiary of New Mexico?

9 A. Yes, I was convicted, yes.

10 Q. All right. And where did you start
11 serving that time at?

12 A. PNM Main facility, Penitentiary of New
13 Mexico in Santa Fe.

14 Q. And when did you first start serving that
15 sentence?

16 A. In 1989.

17 Q. And it was 16 years; right?

18 A. Yes, sir.

19 Q. Plus you had probation and parole
20 afterwards, did you not?

21 A. Yes, sir.

22 Q. And you violated those, did you not?

23 A. Yes, sir.

24 MR. BLACKBURN: May I have a second, Your
25 Honor?

1 THE COURT: You may.

2 MR. BLACKBURN: I have nothing further,
3 Your Honor.

4 THE COURT: All right. Thank you, Mr.
5 Blackburn.

6 Mr. Benjamin.

7 RECROSS-EXAMINATION

8 BY MR. BENJAMIN:

9 Q. Your 1988 conviction was for the murder of
10 your wife; correct?

11 A. Yes, sir.

12 Q. Did that get enhanced in any way, or was
13 your sentenced increased because she was pregnant?

14 A. No, sir. It was -- no, sir. It was
15 enhanced -- I mean, at the time it carried 12 years,
16 basic sentence of nine.

17 MR. BECK: Your Honor, I'm going to object
18 to this question under 609.

19 THE COURT: Well, overruled.

20 A. And I received the 12 years, but I'm not
21 sure it was because she was pregnant. But that's
22 what the second-degree murder of my wife carried, 12
23 years.

24 Q. And she was pregnant; correct?

25 A. She was a month pregnant; correct.

1 Q. And I got distracted earlier, but what I
2 meant to ask you was: When the cooperators were
3 together at the North and at Sandoval, you guys not
4 only shared tablets but you talked.

5 MR. BECK: Objection, Your Honor, outside
6 the scope.

7 THE COURT: I think that is. Sustained.

8 MR. BENJAMIN: Withdrawn, Your Honor.
9 Pass the witness.

10 THE COURT: All right. Did you have
11 anything, Mr. Castle?

12 MR. CASTLE: No, Your Honor.

13 THE COURT: Very brief redirect, Mr. Beck?
14 Do you need anything?

15 MR. BECK: No, Your Honor.

16 THE COURT: Mr. Archuleta, you may step
17 down.

18 Is there any reason that Mr. Archuleta
19 cannot be excused from the proceedings, Mr. Beck?

20 MR. BECK: No, Your Honor. He may be
21 excused.

22 THE COURT: Any defendant object to him
23 being excused? Not seeing or hearing any, you are
24 excused from the proceedings. Thank you for your
25 testimony.

THE WITNESS: Thank you.

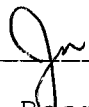
UNITED STATES OF AMERICA

STATE OF NEW MEXICO

C-E-R-T-I-F-I-C-A-T-E

I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
Official Court Reporter for the State of New Mexico,
do hereby certify that the foregoing pages
constitute a true transcript of proceedings had
before the said Court, held in the District of New
Mexico, in the matter therein stated.

In testimony whereof, I have hereunto set my
hand on this 16th day of May, 2018.



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